कात्यायनस्मृतिसारोद्धारः

OR

KĀTYĀYANASMṚTI

ON

VYAVAHĀRA (LAW AND PROCEDURE)

Text (reconstructed), Translation, Notes and Introduction

(Reprint from the Hindu Law Quarterly, Bombay)

BY

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PREFACE

While engaged in writing a history of dharma-śāstra, it occurred to me several years ago that it would be a very useful and interesting thing if I culled together from the several *nibandhas* the quotations from the dharmasūtra of Śankha-likhita, that of Hārīta and the smṛti of Kātyāyana (on vyavahāra) and reconstructed these works. The former I published in the Annals of the Bhandarkar Oriental Institute at Poona (vide volumes VII-VIII) and the latter is now offered here Kātyāyana represents the high water-mark of smṛti literature on judicial procedure and the substantive law of inheritance, contracts &c. In the following pages about one thousand verses of Kātyāyana on vyavahāra will be found collected from about a score of Sanskrit commentaries and digests and presented under appropriate topics. It is further proposed to translate these verses into English, to add explanatory and illustrative notes, to point out the provisions of the modern Indian Statute Law wherever the parallelisms are striking and to indicate the important cases wherein the texts of Kātyāyana have been relied on. Dr. Jolly intended to publish a similar restoration of Kātyāyana, but did not carry out his intentions Mr. Narayan Chandra Bandopadhyaya published about 600 verses of Kātyāyana at Calcutta in 1927. But he left the work incomplete in several respects. He collected passages from five works only, viz. the Dāya-

bhāga, the Vivādaratnākara, the Smṛticandrikā, the Parāśara-Mādhavīya and the Vīramitrodaya. He did not cast his net over a wide area and so his restoration is not as thorough as could be wished. Besides he did not publish a translation nor did he append explanatory notes It is my intention to add also an introduction on the age of Kātyāyana and his importance in the ancient Hindu Law. In my history of Dharmaśāstra, which will be published in a few weeks, these topics have been dealt with (at pp. 213 221), but I propose to enter into greater details in the introduction to this work References have been given as to each verse and important readings have been pointed out. I hope that this work on which I have spent much of my time will be found useful and suggestive to all those who are interested in the development of Hindu Law and in the study of comparative jurisprudence.

The system of transliteration adopted here is that of the Bhandarkar Oriental Institute. The works consulted, the editions used and the abbreviations employed in the notes to the text are noted below.

P V. Kane.

BIBLIOGRAPHY AND ABBREVIATIONS

अपरार्क—commentary of Aparārka on the Yājñavalkyasmṛti (published by the Ānandāśrama Press, Poona)

कुल्लूक—commentary of कुल्लूक on मनुस्मृति (Nirnayasāgara edition)

कल्पतरु—Ms of the कृत्यकल्पतरु or कल्पतरु of लक्ष्मीधर on राजधर्म from the India Office collection and a Ms of a fragment of the व्यवहार portion in the Benares Sanskrit College

टोडरानन्द—Ms in the Deccan College collection (now at the Bhandarkar Institute) of the portion on vyavahāra called Vyavahārasaukhya

दायतत्त्व of रघुनन्दन (printed by Jīvananda)

दायभाग of जीमूतवाहन (Jīvananda's edition 1893)

परा मा = पराशरमाधवीय (vol III) – com of माधवाचार्य on the पराशरस्मृति (Bombay Sanskrit Series edition)

मद पा = मदनपारिजात (ed in Bibliotheca Indica series, Calcutta).

मिता० = मिताक्षरा of विज्ञानेश्वर a com on याज्ञवल्क्यस्मृति

मेधा = भाष्य of मेधातिथि on मनुस्मृति (ed by Mr J R Gharpure)

राज र = राजनीतिरत्नाकर of चण्डेश्वर edited by Mr K. P Jayaswal, Patna

वि चि = विवादचिन्तामणि of वाचस्पतिमिश्र (Calcutta edition of 1837).

वि र = विवादरत्नाकर of चण्डेश्वर (published in the Bibliotheca Indica series)

विश्वरूप—com of विश्वरूप on याज्ञवल्क्यस्मृति (Trivandrum Sanskrit series)

वीर०—वीरमित्रोदय of मित्रमिश्र (on व्यवहार published by Jīvananda and on राजनीति in the Chowkhamba Sanskrit series)

व्यव त = व्यवहारतत्त्व of रघुनन्दन (edited by Jīvananda)

व्य म = व्यवहारमयूख of नीलकण्ठ (edited by me for the Govt. Oriental series Poona 1926)

व्य. मा. = व्यवहारमातृका of जीमूतवाहन (edited by Sir Asutosh Mukerji in vol. III of the Memoirs of the Asiatic Society of Bengal).

स. वि. = सरस्वतीविलास of प्रतापरुद्रदेव (published in the Mysore Govt. Oriental Library series).

स्मृतिच. = स्मृतिचन्द्रिका of देवण्णभट्ट (published in the Mysore Govt. Oriental Library series)

हरदत्त—हरदत्त's commentaries on गौतमधर्मसूत्र (Anandāśrama Press) and आपस्तम्बधर्मसूत्र (Kumbhakonam edition)

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INTRODUCTION.

Kātyāyana occupies a very prominent place among smṛti writers on law and procedure Next to Nārada and Bṛhaspati he is cited on *vyavahāra* more frequently than any other smṛtikāra in such commentaries and digests as the Mitākṣarā, the Smṛticandrikā, the Viramitrodaya and the Vyavahāramayūkha. Kātyāyana's work on law and procedure must have been of considerable extent In the present work, over nine hundred quotations from Kātyāyana have been collected. The smṛti of Nārada as printed by Dr Jolly contains 1028 verses while the quotations from Bṛhaspati collected and translated by the same learned scholar in the Sacred Books of the East series (vol. 33) number 697 verses Therefore even on a very modest computation the smṛti of Kātyāyana on law and procedure must have contained about fifteen hundred verses, if not more This conclusion is further streghthened by a comparison of the number of quotations from Katyāyana on certain

Topics	Verses in Yāj	Verses in Nārada	Verses from Bṛ.	Verses from Kāt
Courts, procedure, plaint, reply and trial	21	136	128	189
Documents	11	12	31	64
Witnesses	16	82	35	72
Ordeals	19	103	33	53
Deposits &c.	11	15	15	20
Partnership	7	18	32	14
Resumption of gifts	2	12	11	19
Breach of contract of service	3	43	20	19
Sale by one not the owner	6	8	11	12
Violation of conventions	8	7	24	15
Boundary Disputes	9	42	29	36
Dāyabhāga	35	52	101	95
Vākpāruṣya	8	32	15	11
Daṇḍapāruṣya	18	8	16	16
Prakīrṇaka	13	55	26	30

selected topics of law and procedure with the number of verses devoted to the same topics in the works of Yājñavalkya and Nārada and in the quotations from Bṛhaspati The above table will be very instructive from this point of view

A few observations about the text presented would be quite appropriate here Owing to oversight a few verses have been repeated (viz 253 and 267, 477 78 587 88, 471 and 641, 566 and 654 486 and 957) In a few cases the text of Katyāyana is presented in two versions (viz 61 62, 174-175 537-538, 899-900) by the authorities consulted in reconstructing the text About a dozen verses are somewhat obscure or difficult of explanation as we are ignorant of their proper setting or context (e g vv 17 160, 256 309-10, 491, 541 700 851, 932, 971) A few of the verses here presented as Katyāyana's are ascribed by some authorities to other smṛtikāras The following tables will illustrate this

(1 Ascribed to Bṛhaspati)

Verses	by whom so ascribed	Verses	by whom so ascribed
53-54	Sm C	536	Par M and V M
*88	Vir	*539	Vir
*141-142	Apar and Sm C	550	Sm C, Par M V R
*152	Par M	568	V R
154-155	Par M	621 623	Apar
167	Vy Mat	620-630	V R
170	Par M	636	Apar, V R*
*171	Vir	692	V, C and V R
206	(first half line) Vir	695	V R, and V C
208	Vy Mat	757	Apar and Par M
279	Par M	822A	Gṛhastharatnākara
282	Par M	832 833	Sm C
291 93	Apar	889 91	Sm C
329	Par M	963	Par M
378	Apar, V M, Vir		
*439	Saras		
*496	Vir		
600	Sm C		

1 It will be noticed from the notes attached to the text and the English notes that the verses marked with an asterisk are ascribed to both Bṛhaspati and Katyāyana even in some of the earliest digests and commentators like Viśvarūpa and the Vyavahāra mātṛkā

(2 Ascribed to Nārada)

Verses	by whom ascribed	Verses	by whom ascribed
27	Sm C.	774	Sm C
159	Vy Māt	811	Mit, Par M.
331-32	Sm C	820	V R
333 334	Sm C.		

(3 Ascribed to Manu)

Verses	by whom ascribed	Verses	by whom ascribed
82	Vy Māt	619	Mit
605[2]	Vir	746	Vir

(4 Ascribed to Vyāsa)

Verses	by whom ascribed	Verses	by whom ascribed
103	Sm C	382-384	V. M.
105	Sm C	595	Vir.
216	Sm C, Vir	597[3]	Par M
242	Vir	693-95	Par. M
		854	D B

Besides these, verses 908 909 and 916 are ascribed to Devala by the Vyavaharamayukha, verses 425-426 are ascribed to Pitāmaha by the Viramitrodaya and verses 485 86 to the same author by the Parasaramadhaviya, verses 402-403 are ascribed to Prajapati by the Parās'aramādhaviya, verses 394 5 are ascribed to Vasiṣṭha by the Smrticandrika and several other digests and verse 404 to the same author by the Smṛticandrikā, verses 418-419 are ascribed to Vrddha Manu by the Sarasvatī vilāsa, verse 659 to the same by the Viramitrodaya and verses 818 19 to the same the by Vivadaratnākara

Several verses quoted as Katyayana's in the digests occur in the printed Nārada The following are such verses 73,[4] 82[5], 91[6], 129 169, 249 289, 305 321, 345, 356 357, 400-401 437, 451, 455, 493 494 553 569 70 625, 893-94 696 698 99, 714, 730 31, 765-66, 769, 893 939 The corresponding verses of

1 Verses 159 and 820 are ascribed to both Nārada and Kāt. by some writers

2 Verse 605 is ascribed to both Kat. and Manu and is not found in Manu

3 Varse 597 is ascribed to both Vyāsa and Kat by Vir

4 This is also found in Manu

5 82 is ascribed to both Manu and Kat. by the Vy Māt

6 91, 356 57 are ascribed to both Nar and Kat by the Māt. and 129 to both of them by the Todarānanda

Nārada are indicated in the notes to the translation A dozen verses attributed to Kātyāyana are found in Manu[1] Besides verses 83 and 884A occur in the Kauṭilya Arthaśāstra, and verses 326 and 327 are the same as Visnu V 186-187 and verses 463 and 716 (first half) are the same as Yājñavalkya II 113 and 183 (latter half)

It is impossible to hold that verses of other authors were in all such cases ascribed to Kātyāyana owing to lapses of memory on the part of the authors of digests or to the careless copying of manuscripts The fact that such early writers as Viśvarupa and Jimutavahana ascribe several verses to two authors should rather induce us to hold that some verses were borrowed by Kātyāyana Bṛhaspati and others from still earlier works which are now lost or that Kātyāyana bodily took some verses from his predecessors and incorporated them in his work

The predecessors of Kātyāyana.

The authors and schools expressly named by Kātyāyana are Bhṛgu Bṛhaspati Gargiyas (v 649), Gautamas[2] (v 823) Kauśika (v 825) Likhita (v 910), Mānavas (vv 649, 823) Manu (vv 432 573, 792) It is to be noted that in v 519 Kātyāyana himself is mentioned It is possible that instead of saying this is my view, he uses the less emphatic and more modest method of giving his own views One remarkable fact is that the views ascribed to Manu and the Mānavas are not found in the extant Manusmṛti On the contrary the view of the extant Manu is opposed to that of the Manavas indicated in v 823 It is possible that the reading 'pravasanam (in v 823) is wrong and we have to read in its place pramāpaṇam In that case only that verse referring to the views of the Mānavas will agree with Manu 9 270 The view ascribed to the Gārgiyas and Manavas

1 342-343=M, 8 79 80 344=M 8 67 351=M 8 68 393=M 8 78 535=M 8 158 655=M 8 165 722=M. 8 413, 782=M 8 286 793=M 8 265 894=M 9 194

2 The Gautama-dharmasutra contains no such rule The subject of theft is treated of in Gautama XII. 14

about taking bribes (v 649) is not the same as that contained in Manu 9 231 Brhaspati is expressly mentioned in the following verses viz 152 170[1] 346 474 537 664 682 718 871, 874 884 As the smrti of Brhaspati has not yet been recovered and as we have only the quotat ons from Brhaspati contained in the D gests it is not possible to say whether all the views attributed to Brhaspat were really held by him Verse 152 is attributed to Brhaspati by the Par M and to both Brhaspati and Kātyayana by the Viramitrodaya We find that the views attributed to Brhaspati in v 884 were held by him as is clear from the six verses quoted by Apararka (p 720) from Brhaspati on Yaj II 119

That Kātyayana looked upon Brhaspati as a model and as an author whose d cta were entitled to respect follows from several verses of Kātyayana Verses 29 and 30 show that Katyāyana had before him the d v s on of the 18 titles of law into 'dhanamula (civil) and himsa mula (criminal) made by Brhaspati Similarly the discuss on about decision by *dharma vyavahara caritra* and *rajas asana* (in verses 35-51) is an elaboration of Brhaspat 's teaching on this subject Verses 284 (about three k nds of documents) 477-78 (about the modes of recovering a debt) 470 (wh ch employs the very word n srstārtha used by Brhaspati) 497 500 (about several kinds of interest) 564 565 (ab ut the duty of the son as regards the liab lity of the father incurred through lust or wrath) 644 645 (about the kinds of valid g fts) presuppose a knowledge of Brhaspati s text

The references to Bhrgu s views are many and create some difficult problems It is generally held that references to Bhrgu in the smrt s and d gests are intended for the extant Manu smrti (wh ch is Bh gu s vers on thereof) Even so early a writer as Brhaspati says[2] Bhrg i spoke of sale w thout owner ship after depos t l sten to it attent vely I shall speak of it

1 Th s verse s var ously read V r read ng t as Bhrgur—abravid and Todarananda as Manur abrav d instead of Gurur abravid

2 निक्षेपान्तर ... मयानि ... from the विवादर नाकर p 100

in greater detail This clearly refers to Manu 8 4 where sale by one not the owner immediately follows 'deposit'. Bṛhaspati elsewhere refers to the extant Manusmṛti not as Bhṛgu's work but as Manu's[1] e g 'Manu has spoken of quantities (units of weight etc) beginning from the mote in the sun beam to the Kārsāpana' (this is an obvious reference to Manu 8 132 136) and 'Manu forbade gambling as it destroys truth, purity and wealth (this refers to Manu 9 221, 224) Katyāyana therefore must be regarded as referring to the work of Manu whenever he speaks of Bhṛgu But verses 231, 395, 413, 478 555, 715, 781 842[2] wherein the views of Bhṛgu are referred to have nothing corresponding to them in the extant Manusmṛti, while the views of Bhṛgu in verses 482, 515, 672 801, 872, 884A 886 900 correspond more or less with the views of the Manusmṛti Kulluka on manu VIII 350 quotes Kātyayana's verse (801) and expressly says 'from the mention of the word Bhṛgu in this verse it is clear that Kātyāyana explains the verse declared by Manu Therefore the explanation of the fact that some views ascribed to Bhṛgu are not, found in the extant Manusmṛti lies in this that either Kātyāyana had a text of Manu largely differing from our extant Manu or that he had another smṛti of Bhṛgu before him which has not come downs to us or that instead of 'Bhṛgu in those verses we have to read 'Guruh' (i e Bṛhaspati)

That Katyayana nowhere expressly mentions Nārada or Kautilya is a matter for great surprise specially when he mentions Bhṛgu and Bṛhaspati a dozen times or more No reason can be assigned for this omission But from several circumstances it is clear that he knew the smṛti of Narada and used it and elaborated it To take only a few examples Nārada (p 7 vv 10 11) states that *dharma, vyavahāra caritra* and royal edict are the four feet (*padas*) of vyavahara and briefly describes in what their essence consists, while Kātyāyana in verses 35-51 elaborately defines these four and dwells at length

1 संज्ञा रश्मिरजोमूला मनुना समुदाहृता । कार्षापणान्ता सा दिव्ये नियोज्या विनये तथा ॥ quoted by अपरार्क on याज्ञ II 99

2 In v 842 it is probable that the proper reading is [illegible] and not-भृगु since as pointed out in the notes to the translation, Bṛhaspati has a verse which is almost the same as this -

upon their conflicts and interactions In verse 202 Kātyāyana prescribes the fines for five kinds of *hinavadis* which are enumerated by him in the same order in which they occur in Narada (S B E vol 33 p 31 v 33) In a very long list about persons incompetent to be witnesses Nārada (pp 86 89 vv 177 187) mentions 'sanābhi (180) and rajapurusa (v 185) These two are defined by Kātyayana in vv 362 and 364 respectively Narada (p 24 v 1) says that a plaintiff comes to court after considering the strength of his own case and after resolving to prosecute his cause and so should write down the plaint at once Katyayana, according to the Vyavahara matrka explains in verse 134 the force of two adjectives in that verse of Nārada Nārada (p 129 v 8) enumerates seven kinds of gifts two of which are bhrtā and 'pratyupakaratah In vv 644 645 Kātyāyana explains at length what is meant by these two terms Brhaspati also mentions the seven kinds of gifts of which bhrta[1] is one But Katyāyana uses the very word pratyupakaratah' that occurs in Narada while the corresponding word in Brhaspati is upakārine Nārada enumerates (pp 135–136 vv 26 28) fifteen kinds of slaves two of which are 'pravrajyavasita and anākāla bhrta Both of these are mentioned in the same words by Kātyāyana in verse 731 the latter half of which is the same as Nārada (p 136 v 31 first half) These examples leave no room for doubt that Katyayana had before him the work of Nārada and tried to elucidate and elaborate the laconic treatment of law in it.

Another important problem is to consider the relation of Kautilya and Katyayana In the notes to the translation of the verses 466 620 755 843 845 857 861 902 921 it has been shown how closely Kātyāyana agrees with Kautilya in some cases the very words of Kautilya in prose occurring in the garb of verse in Kātyāyana Two verses as shown above are common to both Considering how advanced general jurisprudence, rules of procedure and substantive law are in Kātyāyana there can be no doubt that Kātyāyana is later by

1 भृतिस्तुष्टया पण्यमूल्यं स्त्रीशुल्कमुपकारिणे । श्रद्धानुग्रहसम्प्रीत्या दत्तं सप्तविधं विदुः ॥ quoted in Vir p 398

several centuries than Kautilya Therefore if there is a borrowing it must be Katyayana who borrows It is not unlikely that both may have borrowed, particularly the two verses that are common to both, from still earlier sources.

Characteristics and special doctrines of Katyāyana

(1) Kātyāyana represents the high watermark of smṛti rules about procedure In some respects he goes even beyond Narada and Bṛhaspati and is more stringent and elaborate than those two writers For example in verse 221 he propounds a rule similar to the rule of constructive *res judicata*

(2) He has a great *penchant* for distinctions and gives numerous definitions, such as those of vyavahara, prādvivāka, stobhaka, tirita, anuśiṣṭa sāmanta, maula, vṛddha &c

(3) He coins several new terms He makes a distinction between *jayapatra* and *pascatkara* (vv 259-265) while all other writers employ the word *jayapatra* for all judgments (whether delivered after a contest or *ex parte*) Kautilya no doubt uses the word pascatkara but it is used in a different sense[1] He separately defines (vv 876 878) wealth obtained by 'śaurya' and 'dhvajāhṛta, while Nārada and Bṛhaspati includes both under 'śauryadhana' Similarly he makes a distinction between '[illegible]' and '[illegible]' (vv 872 -880), while Narada (p 100 v 6) and Bṛhaspati (p 331 v 78) include both under bhāryadhana'

(4) He gives a more elaborate treatment of 'vidyādhana' (vv 867-873) than is contained in any other smṛtikāra

(5) He devotes at least 27 verses to Strīdhana and his treatment of that topic has attained classical rank Nārada devotes only two verses (dāyabhāga verses 8- 9) to that topic, Yājñavalkya only six and the quotations from Bṛhaspati on this topic are not many

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1 [illegible] If a man (defendant or accused) does not reply to a charge of injury (or assault) then he is defeated (or punished) that very day

(6) Kātyayana (v 530) speaks of five kinds of sureties, while Nārada knows only three and Yājñavalkya and Bṛhaspati only four

(7) In verses 16-17 he allows only a limited (and not absolute) owne·ship to the king over all land

(8) The court consisted of the judge, the *sabhyas, brahmanas* merchants (vv 57 59)

(9) Champerty and maintenance were not countenanced (vv 89-90)

(10) The employment of recognised agents and pleaders was permitted (vv 91 92) Nārada (p 29 vv 22 23) has similar provisions

(11) Kātyāyana holds, differing from Vasiṣṭha Yājñavalkya and other sages, that a man has no ownership over his wife or son and cannot sell his son (v 471)

(12) Kātyāyana allowed the pledge of an article without possession (vv 517 518)

(13) Kātyāyana (v 857) allows one fourth to a son who is not aurasa, when an aurasa son is born to the father, provided the former is of the same caste In Manu and Yājñavalkya no such proviso is added

(14) Katyayana permits the practice of *niyoga* following ancient writers like Gautama Vasiṣṭha, Y&j and Narada though it was condemned by Manu (9 64-66) and Bṛhaspati (p 369 vv 12 13)

The date of Kātyāyana

The foregoing discussion has established that Kātyāyana is later than Kauṭilya, Yājñavalkya Nārada and Bṛhaspati In his treatment of ordeals he is less elaborate than Pitāmaha Pitāmaha quotes Bṛhaspati [1] So Kātyāyana is later than Bṛhaspati and earlier than Pitāmaha The external evidence will enable us to arrive at a more precise date Kātyāyana

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1 ग्रामगोष्ठीपुरश्रेणीसार्थसेनानिवासिनाम् । व्यवहारस्त्वभिज्ञेन निर्णेतव्यो बृहस्पतिः ॥ quoted in स्मृतिचन्द्रिका III p 58. Vide Br p 287 v 28

is profusely quoted by the Mitākṣarā Aparārka and other writers of the 11th and 12th centuries as a smṛtikāra of equal authority with Yājñavalkya, Nārada and Bṛhaspati In their opinion therefore he was an ancient author In the Valipattana plate of the Silāhāra king Rațțarāja dated śake 932 (1010 11 A D) one verse of Kātyāyana (296) about the requisites of a valid royal edict is quoted as a smṛti [1] Medhātithi on Manu (VII 1) ascribes to Kātyāyana the rule that in case of conflict between the dictates of dharmaśāstra and of arthaśāstra, the king should prefer the former (v 20) Medhātithi on Manu VIII 216 speaks of a Kātyāyanasūtra [2] Whether he refers to another work of Kātyāyana in prose or whether Kāyāyana's smṛti on vyavahāra included prose passages also, or whether Medhātithi only gives in prose the purport of a verse of Kātyāyana similar in principle to v 657 it is difficult to say The second alternative is almost improbable, as no other commentator or digest has quoted a single prose passage on vyavahāra from Kātyāyana In favour of the first alternative, it may be urged that Kātyāyana is enumerated as one of the expounders of Dharma in Sankha-Likhita, Yājñavalkya (1 4-5) and Parāśara As the quotations from Kātyāyana represent a stage of jurisprudence later than the extant Yājñavalkya, the reference to Kātyāyana in Yājñavalkya must be to some earlier work of another Kātyāyana or the verses about the expounders of dharma in Yājñavalkya must be a later addition As Medhātithi knew a verse of Kātyāyana which is quoted by the Mit and other digests there can be little doubt that Medhātithi at least knew a work in verse of Kātyāyana Therefore it appears that the third alternative referred to above is more probable than the other two Medhātithi flourished between 825-900 A D (vide my History of dharmaśāstra Vol I p 275) Viśvarūpa (on Yāj) quotes eleven verses of Kātyāyana (124 125, 126, 130 136, 139, 140 141, 541, 806 828) Viśvarūpa flourished in the first half of the 9th century (vide History of dharmaśāstra p 263) Viśvarūpa looked upon Kātyāyana as a great smṛti writer like Yāj,

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1 Vide 'Indian Historical Quarterly' for 1928 p 218

2 'यो ब्राह्म कश्चित्कर्मणि धनमावध्य कर्तौ निवर्ततेति कात्यायनीय सूत्रे धनमाध्य भासज्य धनव्यय कारयित्वा यदि अर्धकृते निवर्तेत सोपि तद्देदित्यनुषङ्ग '.

Nārada and Bṛhaspati This position he could not have attained in a century or two Hence Kātyāyana cannot be placed later than 600 A D As Kātyāyana is later than Yājñavalkya, Nárada and Bṛhaspati he could not have flourished before the 3rd or 4th century A D Therefore the smṛti of Katyāyana must be placed between 300 to 600 A D

There is a work called Karmapradipa on ācārya, śrāddha and other topics (excluding vyavahāra) ascribed to Kātyāyana Vide History of dharmasāstra Vol I pp 218 221 for a discussion as to its authorship and other matters

Kātyāyana and Western Jurisprudence

Kātyāyana represents the last stage of the development of law and procedure in the smṛtis He comes almost at the end of the period of about a thousand years during which from scanty and scattered beginnings in the earliest Dharmasutras, principles of an indigenous system of jurisprudence were slowly evolved and matured. It would be unfair to institute a comparison between Kātyāyana and modern jurisprudence of this or the last century Even so, some of his rules such as those about the contents and characteristics of good plaints and written statements, about the evidence of witnesses and about documents about constructive *res judicata* are startling in their modernity A study of the vesres indicated in the Index where there is a close correspondence between the dicta of Kātyāyana and modern Anglo Indian Codes (such as the Civil Procedure Code, the Contract Act, the Evidence Act the Limitation Act the Transfer of Property Act) will amply corroborate this statement In order to appreciate the intrinsic merits of ancient Indian Jurisprudence as represented by Kātyāyana, the proper course would be to compare it with the most developed system of ancient Jurisprudence in the West, viz, the Roman Kātyāyana probaly flourished as shown above about the same time as Justinian (483 565 A D) or perhaps a century or two earlier. In the following an attempt will be made to compare a faw of the dicta of Kātyāyana with the Institutes of Justinian, the great Roman legislator and it is hoped that it will be found that both present a striking

The rules of Hindu law were therefore more equitable to the acquirer than the rule of Justinian

According to ancient Roman Law if any one had received *bonafide* by purchase, gift or other legal means a thing from a person who was not the owner he became the owner by one year's use in the case of moveables and by two years' use in the case of immoveable property situated in *solum Italicum* Justinian (Lib II Tit VI) altered these unreasonably short periods and prescribed that moveables should be acquired by user for three years and immoveable property by the 'possession of long time' i e for ten years for persons present and twenty years for persons absent, wherever the property might be situated Ancient Indian jurisprudence showed more concern for rights of ownership in property Ancient writers like Manu (VIII 147) and Gautama (XII. 34) held that if a chattel were enjoyed for ten years before the eyes of the owner by another without protest the ownership was lost Yajnavalkya (II 24) appears to have prescribed 20 years in the case of immoveable property and ten years in the case of moveables for loss of ownership by adverse possession Narada (p 62 v 89 and p 63 v 91) prescribed that possession within living memory cannot confer ownership if unaccompanied by title but when it has been enjoyed for three generations and thus passes beyond living memory it becomes independent proof of ownership But there was divergence about what was meant by living memory or 'three generations Brhaspati (p 313 vv 23 24) says that a generation means a period of 30 years so three generations would come to about 90 or 100 years and this is the period of living memory according to the Mitākṣarā on Yajñavalkya (II 27) Vyāsa followed a middle course and cut down the period of living memory to sixty years and Kātyāyana (v. 318) does the same Considering the natural inclination of most strong men to seize the property of the weak and the unsettled state of the country in those times owing to wars and foreign invasions the period prescribed by Kātyāyana is not unreasonable It may be noted that till the passing of the Prescription Act (2 and 3 William IV Chapter 71) English law clung to the singular rule that the expression 'Time immemorial included and denoted the whole period of time from the reign of king Richard I (1189

A.D.) and that the Prescription Act prescribes a period of sixty years for making a right by enjoyment absolute and indefeasible

Justinian (Lib II Tit VI 1, 9) prescribed that possession however long would not confer ownership in the case of free persons, sacred or religious things, fugitive slaves and things that belong to the state *fiscus* A similar rule is given by Kātyāyana (v 330)

According to Justinian (Lib III Tit XIV. 2-3) he who receives a thing but for his use (*commodatum*) is bound to employ his utmost diligence in keeping and preserving it and it would not be sufficient for him to show that he had taken the same care of it which he was accustomed to take of his own property But a person with whom a thing is deposited (*depositum*) was only answerable if he was guilty of fraud and not for a fault such as carelessness or negligence Kātyāyana on the other hand places all kinds of bailment on the same footing (v 592) and prescribes for all bailments the rule that the bailee would not be liable if he takes as much care of the thing bailed as he takes of his own property (v 594, 598) That the rule of Kātyāyana is more reasonable will be clear to any one and the Indian Contract Act (sections 151-152) requires the same amount of care from every bailee as Kātyāyana does

death over slaves to their masters On the contrary Manu said (VIII 299-300) that a master could not inflict more punishment on his slave than he could inflict on his own son and that punishment was to be administered only on the back (and never on the head) with a rope or a small bamboo stick. Manu (IV 180) enjoined on a man not to quarrel with his parents' children, wife and slaves and laid down that, as a slave was like one's shadow and as the daughter was the highest object of tenderness, one must not even when offended by them show resentment (IV 185) Manu (VIII 416) no doubt prescribed that what a slave acquired belonged to the master Kātyāyana however (v 724) appears to have held that what the slave got through the favour of his master did not belong to the master Katyayana further provided a remarkable rule (v 729) viz that a master was to be fined two hundred *panas* if being well off he desired to sell a female slave who was devoted to him and who wept over the proposed seperation These and other provisions show that the ancient Hindu Law as to slaves was decidedly more humane than the Roman Law.

Justinian (Lib III Tit XXIII) says 'If earnest has been given, then whether the contract was written or unwritten, the purchaser, if he refuses to fulfil it loses what he has given as earnest and the seller if he refuses has to restore double' This very rule occurs in Kātyayana (v 541)

Kātyāyana was the greatest ancient Indian champion of the rights of women to their property He defines at great length what is woman s peculiar property He prescribed that over women's wealth of the type called *saudayika* (v 901) she had absolute power of disposal, even as regards immoveable property (vv 905-906) Not even the husband nor her son had any power over her peculiar wealth and Kātyāyana went so far as to say that the husband and others, if they deprived her of such wealth, were liable to be fined (vv 912, 916) Comparing these provisions with Justinian's (Lib II Tit VII 3, Lib. II Tit VIII, Lib IV Tit VI 37) it appears that the position of the wife as regards property was better under Hindu Law than under Justinian The position of the wife under the English Common Law was that of utter legal subjection By that law, as the husband and wife were regarded as one person, the wife

was incapable with some insignificant exceptions, of acquiring or enjoying any property, real or personal, independendently of her husband This continued till so late as 1882, when the Married Women's Property Act (45 and 46 Vict Chapter 75) was passed Even after that Act, the old law continues as regards marriages celebrated before 1st January 1883

It is beyond the scope of this Introduction to compare and contrast exhaustively the rules of Kātyāyana and the Institutes of Justinian Enough has already been stated to show that a comparison between the two would be far from unfavourable to the Indian sage The only point of importance in which Justinian can be claimed to have gone much beyond the Indian sage is in the law of wills Owing to the universal prevalence of the joint family system in India and the practice of adoption the law of wills was not developed in ancient India Kātyayana however made a very near approach to wills when he provided that, if a gift was promised by a man for a religious purpose whether in good health or when suffering from a disease, or when a man promised a gift to a brahmana, the son or other heir was to be made to deliver or pay the promised gift even after the death of the promisor (vv 566, 642)

It is gratifying to see that human reason whether in the East or in the West, reaches fundamentally identical solutions of practical problems, when untrammelled by the dead weight of scriptural authority or when not dwarfed by alien domination



INDEX OF HALF-VERSES

ERRATA

N B Misprints that would be easily detected have not been shown

Page	Verse	Correct	Incorrect
1	10	नरक	नरके
4	33	राज्ञाप्रचोदित	राज्ञा प्रचोदित
11	65	क्षमायातो	क्षमायातो
19	120	गृहीतमहणो	महीतमहणो
24	163	—णोतारं नाभियुञ्जीत	—णे तारम भियुञ्जीत
30	216	धटादि—	वधा दि—
33	240	परिहारयेत्	परिधारयेत्
34	271	मत्तनोपधि०	मत्तेनोपाधि०
44	337	प्रज्ञापनाभेद	प्रज्ञापना भेद
46	348	नोत्कृष्टश्राव-	नोत्कृष्टश्राव
56	444	शिरोमात्र	शिरोमात्र
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59	466	पिता स्वत च	पिताऽस्वत-च
59	472	दण्डश्च	दण्ड च
62	499	वर्णिक	वर्णिकम्
64	510	फलकद्वात्रिंशस्य	फलकैद्वात्रिंशस्य
65	520	ये विद्यमान	यो विद्यमान
65	522	गृह	मम
69	735	सामन्तमार्गे ग्राम तै	साम तमार्गेऽग्राम त
91	745	स्मृता	स्मृत
91	747	समाहित	समाहिता.
92	755	अनिरुद्धा	अनिरुद्धो
100	824	प्रगृह्य चिह्न-	प्रगृह्यश्चिह्न-
101	833	—वत्त नुमोदक	—वत्तनुमोदक
116	901	विशेषादन—	विशेषादेव—
148	170	'Adharya' means 'weakness	Adharya means 'weakne'
156	207n	fate	ate

Page	Verse	Correct	Incorrect
168	211n	'while in the other two kinds... the plaintiff'	'while in the other two kinds ...the defendant'
185	353n	Omit the figure '354' and read 'This reading' immediately after 'an ornament etc' in the preceding line	
220	520	as *ādiṣṭa*	as *nirdiṣṭa*
234	566n	30 Mad. 340	30 Mad 34
302	857n	'the father and aurasa son take four-ninths each'	'the father and aurasa son take one-fourth each'
304	859n	मंत्रसंस्कार	मंत्रसकार
312	882	वास्तुविभागे	वस्तुविभागे

कात्यायनस्मृतिसारोद्धारः

(राजगुणा)

विनीतः शास्त्रसंपन्न· कोशशौर्यसमन्वितः ।
ब्रह्मण्यो दानशील स्यात्सत्यधर्मपरो नृप ॥१॥
स्तम्भोपतापपैशुन्यचापलक्रोधवर्जित ।
प्रगल्भ सप्नतोदग्र संभाषी प्रियदर्शन· ॥२॥
वश्येन्द्रियं जितात्मानं धृतदण्डं विकारिपु ।
परीक्ष्यकारिणं धीरमत्यन्तं श्रीर्निपेवते ॥३॥

(राजधर्मा)

शौर्यविद्यार्थवाहुल्यात्प्रभुत्वाच्च विशेपत· ।
सदा चित्तं नरेन्द्राणां मोहमायाति कारणात् ॥४॥
तस्माच्चित्तं प्रबोद्धव्यं राजधर्मे सदा द्विजैः ।
पवित्रं परमं पुण्यं स्मृतिवाक्य न लङ्घयेत् ॥५॥
येद्ध्यनिप्रभावेण देवा· स्वर्गनिवासिन ।
तेपि तत्र प्रमोदन्ते तृप्तास्तु द्विजपूजनात् ॥ ६ ॥
तस्माद्यत्नेन कर्तव्या द्विजपूजा सदा नृपे ।
तेन भूयोपि शक्रत्वं नरेन्द्रत्वं पुन पुनः ॥ ७ ॥
सुराध्यक्षश्च्युत· स्वर्गान्नृपरूपेण तिष्ठति ।
कर्तव्यं तेन तन्नित्यं येन तत्त्व समाप्नुयात् ॥ ८ ॥
आत्मीये संस्थिता धर्मे नृपा शक्रत्वमाप्नुयु ।
अवीचिवासिनो ये तु व्यपेताचारिण सदा ॥ ९ ॥
गच्छेत्सम्यगविज्ञाय वशा क्रोधस्य यो नृप ।
वसेत्स नरकं घोरे कल्पार्धं तु न संशय ॥ १० ॥

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1 3 कृत्यकल्पतरु, वीर० (राजनीतिप्रकाश) pp 120 121
4-5 वीर ० (राज०) p 136 कृत्यकल्पतरु
6 8 कृत्यकल्पतरु वीर० (राज०) p 139
9 कृत्यकल्पतरु, वीर० (राज०) p. 145
10 कृत्यकल्पतरु.

एतैरेव गुणैर्युक्तममात्यं कार्यचिन्तकम् ।
ब्राह्मणं तु प्रकुर्वीत नृपभक्तं कुलोद्वहम् ॥ ११ ॥
मन्त्रिणो यत्र सभ्याश्च वैद्याश्च प्रियवादिनः ।
राज्याद्धर्मात्सुखात्तत्र क्षिप्रं हीयेत पार्थिवः ॥ १२ ॥
न तस्य वचने कोपमेतेषां तु प्रवर्तयेत् ।
यस्मादेते सदा वाच्यं न्याय्यं सुपरिनिष्ठितम् ॥ १३ ॥
यत्र कर्माणि नृपतिः स्वयं पश्यति धर्मतः ।
तत्र साधुसमाचाराः निवसेयुः सुखं प्रजाः ॥ १४ ॥
प्रजानां रक्षणं नित्यं कण्टकानां च शोधनम् ।
द्विजानां पूजनं चैव एतदर्थं कृतो नृपः ॥ १५ ॥
भूस्वामी तु स्मृतो राजा नान्यद्रव्यस्य सर्वदा ।
तत्फलस्य हि षड्भागं प्राप्नुयान्नान्यथैव तु ॥ १६ ॥
भूतानां तन्निवासित्वात्स्वामित्वं तेन कीर्तितम् ।
तत्क्रिया बलिषड्भाग शुभाशुभनिमित्तजम् ॥ १७ ॥
एवं प्रवर्तते यस्तु लोभं त्यक्त्वा नराधिपः ।
तस्य पुत्राः प्रजायन्ते राष्ट्रं कोशश्च वर्धते ॥ १८ ॥
अन्यायेन हि यो राष्ट्रात् करं दण्डं च पार्थिवः ।
सस्यभागं च शुल्कं चाप्याददीत स पापभाक् ॥ १९ ॥
अर्थशास्त्रोक्तमुत्सृज्य धर्मशास्त्रोक्तमाव्रजेत् ॥ २० ॥
दुष्टस्यापि नरेन्द्रस्य तद्राष्ट्रं न विनाशयेत् ।
न प्रजानुमतो यस्मादन्यायेषु प्रवर्तते ॥ २१ ॥
अक्लेशेनार्थिने यस्तु राजा सम्यङ् निवेदयेत् ।
तत्तारयत्यनन्तं स्याद्धर्मार्थं दानमीदृशम् ॥ २२ ॥
न्यायेनाक्रम्य यल्लब्धं रिपुं निर्जित्य पार्थिवैः ।
तल्लुब्धं तत्प्रदेयं तत्रान्यथोपहृतं क्वचित् ॥ २३ ॥

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11 13 कृत्यकल्पतरु वीर० (राज०) p 178
14 16 कृत्यकल्पतरु, वीर० (राज०) p 254
16 17 कृत्यकल्पतरु, वीर० (राज०) p 271
18-19 वीर० (राज०) p 276, कृत्यकल्पतरु
20 मेधा० on मनु० 7 1
21 वीर० (राज०) p 411, कृत्यकल्पतरु
22 23 कृत्यकल्पतरु

राजा पुरोहितं कुर्यादुदितं ब्राह्मणं हितम् ।
कृताध्ययनसंपन्नमलुब्धं सत्यवादिनम् ॥ २४ ॥

(व्यवहारलक्षणादि)

प्रयत्नसाध्ये विच्छिन्ने धर्माख्ये न्यायविस्तरे ।
साध्यमूलस्तु यो वादो व्यवहारः स उच्यते ॥२५॥
वि नानार्थेऽव संदेहे हरणं हार उच्यते ।
नानासंदेहहरणाद् व्यवहार इति स्मृतः ॥२६॥
न राजा तु वशित्वेन धनलोभेन वा पुनः ।
स्वयं कार्याणि कुर्वीत नराणामविवादिनाम् ॥२७॥
उत्पादयति यो हिंसां देयं वा न प्रयच्छति ।
याचमानाय दौःशील्यादाकृष्योऽसौ नृपाज्ञया ॥२८॥
द्विपदे साध्यभेदात्तु पदाष्टादशतां गते ।
अष्टादश क्रियाभेदाद्भिन्नान्यष्टसहस्रशः ॥२९॥
साध्यवादस्य मूलं स्याद्वादिना यन्निवेदितम् ।
देयाप्रदानं हिंसा चेत्युत्थानद्वयमुच्यते ॥३०॥
पूर्वपक्षश्चोत्तरं च प्रत्याकलितमेव च ।
क्रियापादश्च तेनायं चतुष्पात्समुदाहृतः ॥३१॥
धर्मशास्त्रार्थशास्त्रे तु स्कन्धद्वयमुदाहृतम् ।
जयश्चैवावसायश्च द्वे फले समुदाहृते ॥३२॥

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24 स. वि. p. 20.

25 अपरार्क p. 596, स्मृतिच॰ III p. 1, वीर॰ p. 5, परा. मा. III. p. 6.

26 व्य. मा. p. 283, परा. मा. III. p. 7, कुल्लूक on मनु 8. 1. व्य. मा. reads स्थितिः for स्मृतः.

27 व्य. मा. p. 285, दोदरानन्द, कुल्लूक on मनु 8. 43. व्य. मा. reads न ब्राह्मणविवादिनाम् for नराणामविवादिनाम्.

28 व्य. मा. p. 285, अपरार्क p. 605.

29 स्मृतिच॰ III p. 3 (latter half only), परा मा. III. p. 20 (reads भिन्नान्यथ सहस्रधा).

30 स्मृतिच॰ III. p. 27.

31 अपरार्क p. 616, वीर॰ p. 59, स्मृतिच॰ III. p. 27.

32 स्मृतिच॰ III p. 27.

अप्रवृत्तं कृतं यत्र श्रुतिस्मृत्यनुमोदितम् ।
नान्यथा तत्पुनः कार्यं न्यायापेतं विवर्जयेत् ॥ ५१ ॥

(धर्माधिकरण)

धर्मशास्त्रविचारेण मूलसारविवेचनम् ।
यत्राधिक्रियते स्थाने धर्माधिकरणं हि तत् ॥ ५२ ॥
प्रातरुत्थाय नृपतिः शौचं कृत्वा समाहितः ।
गुरुं ज्योतिर्विदो वैद्यान्देवान्विप्रान्पुरोहितान् ॥५३॥
यथार्हमेतान्संपूज्य सुपुष्पाभरणाम्बरैः ।
अभिवन्द्य च गुर्वादीन् सुमुखां प्रविशेत् सभाम् ॥५४॥
विनीतवेषो नृपतिः सभां गत्वा समाहितः ।
आसीनः प्राङ्मुखः स्थित्वा पश्येत्कार्याणि कार्यिणाम् ।
सह त्रैविद्यवृद्धैश्च मन्त्रज्ञैश्चैव मन्त्रिभिः ॥ ५५ ॥
सप्राड्विवाकः सामात्यः सब्राह्मणपुरोहितः ।
ससभ्यः प्रेक्षको राजा स्वर्गे तिष्ठति धर्मतः ॥ ५६ ॥
सह सभ्यैः स्थिरैर्युक्तैः प्राज्ञैर्मौलैर्द्विजोत्तमैः ।
धर्मशास्त्रार्थकुशलैरर्थशास्त्रविशारदैः ॥ ५७ ॥
कुलशीलवयोवृत्तवित्तवद्भिरमत्सरैः ।
वणिग्भिः स्यात्कतिपयैः कुलभूतैरधिष्ठितम् ॥ ५८ ॥

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52 स्मृतिच॰ III p. 42 परा मा III p 22, वीर॰ p 11 (which reads धर्मशास्त्रानुसारेण अर्थशास्त्रविवेचनम्)

53-54 परा मा III p 22 These are ascribed to बृहस्पति by स्मृतिच॰ (III p 24)

55 स्मृतिच॰ III p 52 व्य. मा p 278 (first two lines)

56 मिता॰ (on या II 2), व्य मा p 278, स्मृतिच III p. 30, परा मा. III p 31, वीर॰ p 41

57 मिता॰ (on या II 2) व्य मा p 278, स्मृतिच॰ III p 33, वीर॰ p. 41 All except व्य मा read स तु सभ्यैः, व्य मा reads प्रज्ञामूलैः for प्राज्ञैर्मौलैः and युक्त for युक्तैः राज र. p 87 has the half verse धर्मशा.

58 मिता॰ (on याज्ञ II 2), स्मृतिच III p 38, परा मा III p 32, वीर॰ p 41, व्यवहारतत्त्व p 199 स्मृतिच॰ reads शील for वृत्त.

श्रोतारो वणिजस्तत्र कर्तव्या न्यायदर्शिनः ॥ ५९ ॥

(कार्यदर्शनकालः)

सभास्थानेषु पूर्वाह्णे कार्याणां निर्णयं नृपः ।
कुर्याच्छास्त्रप्रणीतेन मार्गेणामित्रकर्षणः ॥ ६० ॥
दिवसस्याष्टमं भागं मुक्त्वा कालत्रयं तु यत् ।
स कालो व्यवहाराणां शास्त्रदृष्टः परः स्मृतः ॥ ६१ ॥
आद्यादह्नोऽष्टभागाद्यदूर्ध्वं भागत्रयं भवेत् ।
स कालो व्यवहारस्य शास्त्रे दृष्टो मनीषिभिः ॥ ६२ ॥

(प्राड्विवाकः)

यदा कुर्यान्न नृपतिः स्वयं कार्यविनिर्णयम् ।
तदा तत्र नियुञ्जीत ब्राह्मणं शास्त्रपारगम् ॥ ६३ ॥
दक्षं कुलीनं मध्यस्थमनुद्वेगकरं स्थिरम् ।
परत्र भीरुं धर्मिष्ठमुद्युक्तं क्रोधवर्जितम् ॥ ६४ ॥
अक्रूरो मधुरः स्निग्धः क्षमायातो विचक्षणः ।
उत्साहवानलुब्धश्च वादे योज्यो नृपेण तु ॥ ६५ ॥
एकशास्त्रमधीयानो न विद्यात्कार्यनिश्चयम् ।
तस्माद्बह्वागमः कार्यो विवादेषूत्तमो नृपैः ॥ ६६ ॥

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59 स्मृतिच॰ III p 38, पर मा III p 31 वार॰ p 41 स्मृतिच॰ reads न्यायदर्शने

60 व्य मा p 284 वार॰ p 28 व्य मा reads समास्थाने तु and शास्त्रप्रमाणेन

61 व्य मा p 284 वीर॰ p 28 परा म III p 23 व्यवहारतत्त्व p 200

62 अपरार्क p 601 स्मृतिच॰ III p 60

63 व्य मा p 279 स्मृतिच॰ III p 36 राज र p 18 वीर॰ p 33 व्य मा and राज॰ र read यदि कार्यवशात्पार्थः न पश्येत्कार्यनिर्णयम् व्यवहारतत्त्व p 193 reads यदा कार्यवशात् … णयम् (as व्य मा does)

64 मिता॰ (on य II 3) स्मृतिच III p 36 व्य मा p 279 वीर p 33 मिता and व्य मा read दान्तं कुलीनम्

65 स्मृतिच III p 36 परा म III 29 (not cited as कात्यायन's but from स्मृत्यन्तर)

66 अपरार्क p 601 स्मृतिच॰ III p 36 राज र p 23 वीर p 33 अपरार्क reads एकशास्त्रमधाने यो न and राज र reads एव शास्त्र॰ राज र reads तस्माद्बह्वागमः कार्यो विवादेनात्तमा

शास्त्रेण निन्दितं त्वर्थमुख्यो राज्ञा प्रचोदितः।
आवेदयति यः पूर्वं स्तोभकः स उदाहृतः ॥३३॥
नृपेणैव नियुक्तो यः परदोषमवेक्षितुम्।
नृपस्य सूचयेज्ज्ञात्वा सूचकः स उदाहृतः ॥३४॥

(धर्म व्यवहार चरित्र-राजशासनादीनां बलाबलविचार.)

दोषकारी तु कर्तृत्वं धनस्वामी स्वकं धनम्।
विवादे प्राप्नुयाद्यत्र धर्मेणैव स निर्णयः ॥३५॥
स्मृतिशास्त्रं तु यत्किंचित्प्रथितं धर्मसाधकैः।
कार्याणां निर्णयार्थे तु व्यवहारः स्मृतो हि सः॥ ३६ ॥
यद्यदाचर्यते येन धर्म्यं वाधर्म्यमेव वा।
देशस्याचरणान्नित्यं चरित्रं तत्प्रकीर्तितम् ॥३७॥
न्यायशास्त्राविरोधेन देशदृष्टेस्तथैव च।
यं धर्मं स्थापयेद्राजा न्याय्यं तद्राजशासनम् ॥३८॥
युक्तियुक्तं तु कार्यं स्याद् दिव्यं यत्र विवर्जितम्।
धर्मस्तु व्यवहारेण बाध्यते तत्र नान्यथा ॥३९॥
प्रतिलोमप्रसूतेषु तथा दुर्गनिवासिषु।
विरुद्धं नियतं प्राहुस्तं धर्मं न विचालयेत् ॥ ४० ॥
निर्णयं तु यदा कुर्यात्तेन धर्मेण पार्थिवः।
व्यवहारश्चरित्रेण तदा तेनैव बाध्यते ॥ ४१ ॥

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33 स्मृतिच॰ III 65, परा मा III 45, वीर॰ p 51 परा मा reads त्वर्थं मुख्यधार्थ and वीर॰ reads यत्पूर्वं, स्मृतिच॰ reads मुख्यश्चार्थप्र॰

34 स्मृतिच॰ III 65, परा मा III, 45, वीर॰ p 51 वीर॰ reads नृपेण विनियुक्तो...दोषानवेक्षणे, परा मा reads नृपस्य समय ज्ञात्वा.

35 स्मृतिच॰ III p 21, परा. मा III p 16, वीर॰ p 9

36 स्मृतिच॰ III p. 29, कृत्यकल्पतरु, परा मा. p 17, वीर॰ p 9 वीर॰ reads नियमार्थेषु for निर्णयार्थे तु. कृत्यकल्पतरु reads निर्णयार्थे च and स्मृतिशास्त्रे

37 स्मृतिच॰ III p 22 परा मा p 17, वीर॰ p 9, टोडरानन्द टोडरानन्द reads यद्यदाचर्यते येन धर्मो वाधर्म एव वा

38 स्मृतिच॰ III p 22, परा मा III p 17, वीर॰ p 10

39 वीर॰ p 120

40-41 टोडरानन्द, वीर॰ p. 120

विरुद्धं न्यायतो यत्तु चरित्रं कल्प्यते नृपै ।
एवं तत्र निरस्येन चरित्रं तु नृपाज्ञया ॥ ४२ ॥
अनेन विधिना युक्तं बाधकं यद्यदुत्तरम् ।
अन्यथाबाधनं यत्र तत्र धर्मो विहन्यते ॥ ४३ ॥
अस्वर्ग्या लोकनाशाय परानीकभयावहा ।
आयुर्बीजहरी राज्ञां सति वाक्ये स्वयं कृतिः ॥ ४४ ॥
तस्माच्छास्त्रानुसारेण राजा कार्याणि साधयेत् ।
वाक्याभावे तु सर्वेषां देशदृष्टेन सन्नयेत् ॥ ४५ ॥
यस्य देशस्य यो धर्मः प्रवृत्तः सार्वकालिकः ।
श्रुतिस्मृत्याविरोधेन देशदृष्टः स उच्यते ॥ ४६ ॥
देशपत्तनगोष्ठेषु पुरग्रामेषु वासिनाम् ।
तेषां स्वसमयैर्धर्मशास्त्रतोऽन्येषु तैः सह ॥ ४७ ॥
देशस्यानुमतेनैव व्यवस्था या निरूपिता ।
लिखिता तु सदा धार्या मुद्रिता राजमुद्रया ॥ ४८ ॥
शास्त्रयत्नतो रक्ष्या ता निरीक्ष्य विनिर्णयेत् ।
नैगमस्थैस्तु यत्कार्यं लिखितं यद् व्यवस्थितम् ॥४९॥
तस्मात्तत्सम्प्रवर्तेत नान्यथैव प्रवर्तयेत् ॥ ५० ॥
प्रमाणदेशदृष्टं तु यदेवमिति निश्चितम् ।

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42 टोडरानन्द, वीर॰ p 121 वीर॰ reads बुधै for नृपै

43 टोडरानन्द, वीर॰ p 121

44 अपरार्क p 599, स्मृतिच॰ III p 57, वीर॰ p 124 (which reads राज्ञामस्ति वाक्येऽपि च कृतिः) स्मृतिच॰ reads अस्वर्ग्यलोक॰ and आयुर्वीर्यहरा

45 अपरार्क p 599 स्मृतिच p 57, परा मा. III 41, वीर॰ p 124 स्मृतिच॰ reads दृष्ट मत अपरार्क reads तद्वेत् परा. मा. and स्मृतिच॰ read ॰दृष्टमत नयत्

46 स्मृतिच III 58, परा मा III p. 41.

47 स्मृतिच III. 58, परा मा III p 41 परा मा reads वादिनाम् and धर्म शास्त्रतो &c

48-49 स्मृतिच॰ III 58, टोडरानन्द (which reads लेखिता तु सदा कार्या लेखिता राज॰)

50-51 टोडरानन्द

ब्राह्मणो यत्र न स्यात्तु क्षत्रियं तत्र योजयेत् ।
वैश्यं वा धर्मशास्त्रज्ञं शूद्रं यत्नेन वर्जयेत् ॥ ६७ ॥

यदा कुर्यान्न नृपतिः स्वयं कार्यविनिर्णयम् ।
नियुक्तैरपि विज्ञेयं दैवाद्यद्यपि शाश्वतः ॥ ६८ ॥

व्यवहाराश्रितं प्रश्नं पृच्छति प्राडिति स्थितिः ।
विवेचयति यस्तस्मिन्प्राड्विवाकस्ततः स्मृतः ॥ ६९ ॥

अनिर्णीते तु यद्यर्थे संभाषेत रहोऽर्थिना ।
प्राड्विवाकोऽथ दण्डयः स्यात्सभ्याश्चैव विशेषतः ॥७०॥

(सभ्याः)

अलुब्धा धनवन्तश्च धर्मज्ञाः सत्यवादिनः ।
सर्वशास्त्रप्रवीणाश्च सभ्याः कार्या द्विजोत्तमाः ॥ ७१ ॥

न्यायशास्त्रमतिक्रम्य सभ्यैर्यत्र विनिश्चितम् ।
तत्र धर्मो ह्यधर्मेण हतो हन्ति न संशयः ॥ ७२ ॥

यत्र धर्मो ह्यधर्मेण सत्यं यत्रानृतेन च ।
हन्यते प्रेक्षमाणानां हतास्तत्र सभासदः ॥ ७३ ॥

अधर्मेण प्रवृत्तं तु नोपेक्षेरन् सभासदः ।
उपेक्षमाणाः सनृपा नरकं यान्त्यधोमुखाः ॥ ७४ ॥

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67 मिता (on या II 3), अपरार्क p 601, व्य मा p 279, राज र. p 23, परा मा III p 29 अपरार्क and वीर० and कुल्लूक (on मनु, 8 20) read यत्र विप्रो न विद्वान् स्यात् and व्य. मा p 279 reads यदि विप्रो न and राज र reads यत्र विद्वान्न विप्रः स्यात् स्मृतिच० (III p. 37) gives यत्र विप्रो न विद्वान् स्यात् and ब्राह्मणो यत्र न स्यात्तु as two different verses of कात्यायन, though the last three pâdas of each are the same

68 अपरार्क p 601 राज र p 23, व्यवहारतत्त्व p 198

69 व्य. मा p 278 अपरार्क p 602 (quotes it as from वृद्धबृहस्पति)

70 स्मृतिच० III p 51 स वि p 69, परा मा III p 35, व्य मा. p 283 (which reads यद्यर्थं रहोऽर्थिन) स्मृतिच and व्य मा read ०श्चैव न संशयः

71 अपरार्क p 601 राज र p 23 (which reads कार्या नृपेद्विजाः)

72 अपरार्क p 604, स्मृतिच० III p 47 परा मा III p 32

73 अपरार्क p 604 This is मनु 8 14

74 स्मृतिच III p 47, परा मा III p 33, अपरार्क p 604, राज. र. p. 25. परा मा reads अथन्यायप्रवृत्तम्

अन्यायेनापि तं यान्तं येऽनुयान्ति सभासदः ।
तेऽपि तद्भागिनस्तस्माद् बोधनीयः स तैर्नृपः ॥ ७५ ॥
न्यायमार्गादपेतं तु ज्ञात्वा चित्तं महीपतेः ।
वक्तव्यं तत्प्रियं तत्र न सभ्यः किल्बिषी भवेत् ॥७६॥
सभ्येनावश्यवक्तव्यं धर्मार्थसहितं वचः ।
शृणोति यदि नो राजा स्यात्तु सभ्यस्ततोऽनघः ॥७७॥
अधर्मतो यदा राजा नियुञ्जीत विवादिनाम् ।
विज्ञाप्य नृपतिं सभ्यस्तदाकार्यं निवर्तयेत् ॥ ७८ ॥
स्नेहादज्ञानतो वापि लोभाद्वा मोहतोऽपि वा ।
तत्र सभ्योऽन्यथावादी दण्डयोऽसभ्यः स्मृतो हि सः ॥७९॥
कार्यस्य निर्णयं सम्यगज्ञात्वा सभ्यस्ततो वदेत् ।
अन्यथा नैव वक्तव्यं वक्ता द्विगुणदण्डभाक् ॥ ८० ॥
सभ्यदोषात्तु यद्द्रव्यं देयं सभ्येन तत्तदा ।
कार्यं तु कार्यिणामेव निश्चितं न विचालयेत् ॥ ८१ ॥

(कार्यनिर्णेतृणां गुरुलाघवम्)

कुलानि श्रेणयश्चैव गणश्चाधिकृतो नृपः ।
प्रतिष्ठा व्यवहाराणां गुरुभ्यस्तूत्तरोत्तरम् ॥ ८२ ॥

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75 मिता० (on या II) स्मृतिच III p 47 परा मा III p 33 अपरार्क p 604 राज र p 25 अपरार्क and राज र read अन्यायता यियासन्त स्मृतिच० reads बोधनीय सनृप

76 स्मृतिच० III p 47 राज र p 25 परा मा III p 33 दोषानन्द (which reads वक्तव्य तत्प्रियं नात्र) स्मृतिच reads मत for भवेत् राज र reads वक्तव्यं तु प्रियं नात्र परा मा reads वक्तव्य for वक्तव्यम्

77 स्मृतिच० III 49 परा मा III p 33 राज र p 25 व्यवहारतत्त्व p 199 (reads तदनृणः)

78 राज र p 24

79 स्मृतिच० III p 50 अपरार्क p 603 परा मा III p 34 स्मृतिच० reads मोहाद्वा लोभतोऽपि वा

80 स्मृतिच० III p 50 अपरार्क p 603

81 स्मृतिच III p 51 स वि p 69 (कारिणामेव for कार्यिणामेव)

82 परा मा p 280 (which ascribes it to मनु and कात्या०) This is नारद I 7

तपस्विनां तु कार्याणि त्रैविद्यैरेव कारयेत् ।
मायायोगविदां चैव न स्वयं कोपकारणात् ॥ ८३ ॥
सम्यग्विज्ञानसंपन्ने नोपदेशं प्रकल्पयेत् ।
उत्कृष्टजातिशीलानां गुर्वाचार्यतपस्विनाम् ॥ ८४ ॥
गोत्रस्थितिस्तु या तेषां क्रमादायाति धर्मतः ।
कुलधर्मं तु तं प्राहुः पालयेत्तं तथैव तु ॥ ८५ ॥

(प्रश्नप्रकार)

काले कार्यार्थिनं पृच्छेत् प्रणतं पुरतः स्थितम् ।
किं कार्यं का च ते पीडा मा भैषीर्ब्रूहि मानव ॥ ८६ ॥
केन कस्मिन्कदा कस्मात् पृच्छेदेवं सभागतः ।
एवं पृष्टः स यद् ब्रूयात्तत्सभ्यैर्ब्राह्मणैः सह ॥ ८७ ॥
विमृश्य कार्यं न्याय्यं चेदाह्वानार्थमतः परम् ।
मुद्रां वा निक्षिपेत्तस्मिन् पुरुषं वा समादिशेत् ॥ ८८ ॥

(प्रतिनिधि)

समर्पितोऽर्थिना योऽन्यः परो धर्माधिकारिणि ।
प्रतिवादी स विज्ञेयः प्रतिपक्षश्च यः स्वयम् ॥ ८९ ॥

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83 व्य मा p 281 (attributes to both बृहस्पति and कात्यायन) वीर० p 30 ascribes it to बृहस्पति

84 वीर० p 31

85 वीर० p 29

86 स्मृतिच० III p 70, व्य मा p 286, परा. मा III p 52, वीर p 47 मिता० (on या III 5) quotes this and the following two as from स्मृत्यन्तर. अपरार्क also p 605 quotes them without citing the name स वि p 75 quotes this verse as कात्यायन's gloss on the words 'केन कस्मिन् कदा ... गत' which it attributes to मनु

87 स्मृतिच० III p 70, परा मा III p 52 वीर० p 47 (which reads सभागतम्), व्य मा p 286 (first half)

88 मिता० (on या II 5), अपरार्क p 605 स्मृतिच० III p 72, परा. मा III p 55 वीर० p 52

89 स्मृतिच० III p 72, अपरार्क p 639, स वि p 80

अधिकारोभियुक्तस्य नेतरस्यास्त्यसङ्गते ।
इतरोप्यभियुक्तेन प्रतिरोधीकृतो मत ॥९०॥
अर्थिना सन्नियुक्तो वा प्रत्यर्थिप्रहितोपि वा ।
यो यस्यार्थे विवदते तयोर्जयपराजयौ ॥ ९१ ॥
दासाः कर्मकरा शिष्या नियुक्ता बान्धवास्तथा ।
वादिनो न च दण्ड्याः स्युः यस्त्वतोन्य स दण्डभाक् ॥ ९२ ॥
ब्रह्महत्यासुरापानस्तेयगुर्वङ्गनागमे ।
अन्येषु चातिपापेषु प्रतिवादी न दीयते ॥ ९३ ॥
मनुष्यमारणे स्तेये परदाराभिमर्शने ।
अभक्ष्यभक्षणे चैव कन्याहरणदूषणे ॥ ९४ ॥
पारुष्ये कूटकरणे नृपद्रोहे तथैव च ।
प्रतिवादी न दातव्य कर्ता तु विवदेत्स्वयम् ॥ ९५ ॥

(आह्वान)

धर्मोत्सुकानभ्युदये रोगिणोथ जडानपि
अस्वस्थमत्तोन्मत्तार्तस्त्रियो नाह्वानयेन्नृप ॥ ९६ ॥

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90 स्मृतिच॰ III p 73 अपरार्क p 639 (which reads प्रहितोधिकृता मत) वीर॰ p 52 (first half) स वि p 80

91 व्य मा p 287 (ascribes it to नारद and कात्यायन) अपरार्क p 639 स्मृतिच॰ III p 71 परा मा III p 53 वीर॰ p 48 कृत्यकल्पतरु ascribes it to नारद and कात्यायन

92 अपरार्क p 639, स्मृ तच॰ III p 71 परा मा III p 54

93 व्य मा p 287 अपरार्क p 639 स्मृतिच III p 75 वीर॰ p 54 अपरार्क reads अन्येष्वसद्यवादेषु and स्मृतिच reads अन्येष्वसभ्य॰ and व्य मा reads अन्येष्वसद्भ॰

94 व्य मा p 287, अपरार्क p 639 स्मृ तच॰ III p 75 वीर p 54 व्यवहारतत्त्व p 200

95 व्य मा p 287 अपरार्क p 639 (reads न दाप्य स्यात्) वीर॰ p 54 (reads कर्तापि) स्मृतिच॰ III p 75 (reads दाप्य स्यादर्थिप्रत्यर्थि नोरपि) व्यवहारतत्त्व p 200

96 स्मृतिच॰ III 74 परा मा III p 51 वीर p 52 ascribes अकल्प बालस्थविर विषमस्थ क्रियाकुलान् । कार्यातिपातिव्यसनि नृपकार्योत्सवाकुलान् । मत्तोन्मत्तप्रमत्तार्तभृत्यान्नाह्वानयेन्नृप to कात्यायन but they are omitted here as these are ascribed to हारीत by स्मृतिच॰ and परा मा and to नारद by व्य म

न हीनपक्षां युवतिं कुले जातां प्रसूतिकाम् ।
सर्ववर्णोत्तमा कन्या ता प्रातिप्रभुका स्मृता ॥ ९७ ॥
तदधीनकुटुम्बिन्यः स्वैरिण्यो गणिकाश्च याः ।
निष्कुला याश्च पतितास्तासामादानमिष्यते ॥ ९८ ॥
सदाक्षोनुत्तरीयो वा मुक्तकेशः सहासनः ।
वामहस्तेन वा वादं वदन्दण्डमवाप्नुयात् ॥ ९९ ॥
आहूतस्त्ववमन्येत यः शक्तो राजशासनम् ।
तस्य कुर्यान्नृपो दण्डं विधिदृष्टेन कर्मणा ॥ १०० ॥
हीने कर्मणि पञ्चाशन्मध्यमे द्विशतावरः ।
गुरुकार्येषु दण्डः स्यान्नित्यं पञ्चशतावरः ॥ १०१ ॥
कल्पितो यस्य यो दण्डस्त्वपराधस्य यत्नतः ।
पणानां ग्रहणं तु स्यात्तन्मूल्यं वाथ राजनि ॥ १०२ ॥

(आसेधः)

उत्पादयति यो हिंसां देयं वा न प्रयच्छति ।
याचमानाय दौःशील्यादाकृष्योसौ नृपाज्ञया ॥ १०३ ॥
आवेद्य तु नृपे कार्यमसंदिग्धे प्रतिश्रुते ।
तदासेधं प्रयुञ्जीत यावदाह्वानदर्शनम् ॥ १०४ ॥

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97 स्मृतिच० III 74 परा० मा० III p 51 (which reads स्वजाति-प्रभुका चैव तथा नाह्वानयन्नृप) वीर० p 52 मिता० on या० II, 5 cites this as स्मृत्यन्तर

98 स्मृतिच० III p 74, परा० मा० III p 51, वीर० p 53 मिता० on या० II 5 cites as स्मृत्यन्तर

99 अपरार्क p 605 व्य० मा० p 286 स० वि० 76 अपरार्क reads 'वा स्रग्वी,' for वा वादं व्य० मा० reads मुक्तकच्छ

100 अपरार्क p 607 स्मृतिच० III p 76, परा० मा० III p 51

101 अपरार्क p 607 स्मृतिच० III p 76, परा० मा० III p 51 अपरार्क reads मध्यमेन शतावरम् and पञ्चशतावरम् परा० मा० reads मध्यमे तु शतावरः

102 स्मृतिच० III p 76 स० वि० p 82 (reads शक्तितः for यत्नतः)

103 वीर० p 55 स्मृतिच० III p 76 ascribes it to व्यास

104 वीर० p 55

आसेधयोग्य आसिद्ध उत्क्रामन्दण्डमर्हति ॥ १०५ ॥

(अनासेध्याः)

यस्त्विन्द्रियनिरोधेन व्याहारोच्छ्वसनादिभिः ।
आसेधयेदनासेध्य स दण्ड्यो न त्वतिक्रमी ॥ १०६ ॥
वृक्षपर्वतमारूढा हस्त्यश्वरथनौस्थिता ।
विषमस्थाश्च ते सर्वे नासेध्याः कार्यसाधकैः ॥ १०७ ॥
व्याध्यार्ता व्यसनस्थाश्च यजमानास्तथैव च ।
अनुत्तीर्णाश्च नासेध्या मत्तोन्मत्तजडास्तथा ॥ १०८ ॥
न कर्षको बीजकाले सेनाकाले तु सैनिकः ।
प्रतिज्ञाय प्रयातश्च कृतकालश्च नान्तरा ॥ १०९ ॥
उद्युक्तः कर्षकः सस्ये तोयस्यागमने तथा ।
आरम्भात्संग्रहं यावत्तत्कालं न विवादयेत् ।
आसेधयस्त्वनासेध्यं राज्ञा शास्य इति स्थितिः ॥ ११० ॥
अभियुक्तश्च रुद्धश्च तिष्ठेयुश्च नृपाज्ञया ।
न तस्यान्येन कर्तव्यमभियुक्तं विदुर्बुधाः ॥ १११ ॥
एकाहद्वयहाद्यपेक्षं देशकालाद्यपेक्षया ।
कृताय साधिते कार्ये तेन भक्तं प्रदापयेत् ॥ ११२ ॥

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105 वीर॰ p 56 स्मृतिच॰ III p 68 ascribes it to व्यास

106 स्मृतिच॰ III p 67, परा मा III p 48, वीर॰ p 56, व्य मा p 9 परा मा reads व्यवहारोत्सवादिभि अनासेध्यैः and अतिक्रमात् व्य म, has the last two, वीर॰ has अनासेध्यै and अतिक्रमम्

107 स्मृतिच॰ III p 68, परा मा III p 48, वीर॰ p 56

108 स्मृतिच॰ III p 68, परा मा III p 49, वीर॰ p 56 (has first half)

109 स्मृतिच॰ III p 68, परा मा III p 49, कृत्यकल्पतरु (has latter half)

110 कृत्यकल्पतरु, स्मृतिच॰ III p. 69, परा मा III 49 (which reads बप स्यागमने) वीर p 56 (last line), व्य. म. p 9 (last line). The first three omit the last line.

111 कृत्यकल्पतरु

112 वीर॰ p 57, अपरार्क p 607 (reads नेता for तेन) has latter half only.

देशकालवयःशक्त्यापेक्षं भोजनं स्मृतम् ।
आकारकस्य सर्वत्र इति तत्त्वविदो विदुः ॥ ११३ ॥

(प्रतिभूत्वेनाग्राह्याः)

न स्वामी न च वै शत्रुः स्वामिनाधिकृतस्तथा ।
निरुद्धो दण्डितश्चैव संशयस्थाश्च न क्वचित् ॥ ११४ ॥
नैव रिक्थी न रिक्थश्च न चैवात्यन्तवासिनः ।
राजकार्यनियुक्तश्च ये च प्रव्रजिता नराः ॥ ११५ ॥
नाशक्तो धनिने दातुं दण्डं राज्ञे च तत्समम् ।
जीवन्यापि पिता यस्य तथैवेच्छाप्रवर्तक ।
नाविज्ञातो ग्रहीतव्यः प्रतिभूत्वक्रियां प्रति ॥ ११६ ॥
अथ चेत्प्रतिभूर्नास्ति वादयोग्यस्य वादिनः ।
स रक्षितो दिनस्यान्ते दद्याद् दूताय वेतनम् ॥११७॥
द्विजातिः प्रतिभूहीनो रक्ष्य स्याद् बाह्यचारिभिः ।
शूद्रादीन्प्रतिभूहीनान् बन्धयेन्निगडेन तु ॥ ११८ ॥

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118 वीर० p. 57, अपरार्क p 607 (reads देश: कालो वयः शक्तिरपेक्ष्या भोजने तथा and धर्मविदो for तत्त्वविदो)

114 स्मृतिच० III, p. 78 (and p. 318), मिता० (on या. II. 57), वि. र. p. 89, परा. मा. III. p. 57 and pp. 253 254, वीर० p. 58 and 330 (has 114 116). परा. मा. at p. 254 reads ' निरुद्धो दण्डितश्चैव शिल्पिनश्चाव्रवोढृगुः' and adds देशाचारेण दाप्याः स्युर्दुग्धान् संपीड्य दापयेत् "

115 स्मृतिच० III.p. 78 and 318, वि र. p. 30, परा. मा. III. p. 57 and also p. 254, वीर० p 58. वि र , परा. मा. p. 254 and मिता० read मित्रं च for रिक्थ.

116 मिता० (on या. II. 57), स्मृतिच० III. p. 78, परा मा. III p. 57, वि. र. p. 39 मिता० and वि. र० read प्रतिभूः स्वक्रियां प्रति and परा० मा. reads प्रतिभूत्वक्रियां. All except मिता० omit the half जीवन्यापि &c.

117 मिता० (या. II. 10), व्य. मा. p. 289, स्मृतिच० III p. 78, परा. मा. III. 58, वीर० p. 59, स. वि. p. 83, व्यवहारतत्त्व p. 202. व्य. मा reads वादयोग्यध, मिता० reads कार्ययोग्यस्तु; वीर० and परा. मा. read भृत्याय for दूताय, स वि. reads कार्ययोग्यस्य वादिनः व्यवहारतत्त्व reads योग्यस्तु वादिनः which is a good reading.

118 परा. मा. III. p. 58

अतिक्रमेपयाते च दण्डयेत्त पणाष्टकम् ।
नित्यकमापरोधस्तु न कार्यं सर्ववर्णिनाम् ॥११९॥
महीतग्रहणो न्यायं न भवत्या महीभृता ।
तस्य वा तत्समर्थं स्यात्स्थापयेद्वा परस्य तत् ॥१२०॥

(अभियोक्त्रादानामुक्तिक्रम)

तत्राभियोक्ता प्राग्ब्रूयादभियुक्तस्त्वनन्तरम् ।
तयोरन्ते सदस्यास्तु प्राड्विवाकस्तत परम ॥ १२१ ॥
यस्य स्यादधिका पीडा कार्यं वाप्यधिक भवेत् ।
पूर्वपक्षो भवेत्तस्य न च पूर्व निवेदयेत् ॥१२२॥
यस्य चार्थगता पीडा शारीरी चाधिका भवेत् ।
तस्यार्थिवादो दातव्यो न च पूव निवेदयेत् ॥ १२३ ॥

(प्रतिज्ञास्वरूपम्)

निवेद्य काल वर्ष च मास पक्ष तिथि तथा ।
वेला प्रदेश विषय स्थान जात्याकृती वय ॥ १२४ ॥
साध्यप्रमाण द्रव्य च सख्या नाम तथात्मन ।
राज्ञा च क्रमशो नाम निवास साध्यनाम च ॥ १२५ ॥

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119 परा मा III p 58

120 व्य मा p 287 स्मृतिच० III p 78 दाडगतन्द व्य मा and दोडरानन्द read न्यायो for याय तस्यात for तस्य वा and परत्र for परस्य

121 अपरार्क p 611, स्मृतिच० III p 79 परा मा III p 58 वीर० p 57 व्य मा p 289 (reads तयोरुक्तौ for तयोरन्ते) स वि p 83

122 व्य मा p 290 व्यवहारतत्त्व p 200 परा म III p 59 स्मृतिच० III p 79, स वि p 83 (reads one verse as यस्य च अधिका पीडा अकार्यं साधिक भवत् । तस्य विवादा०)

123 व्य मा p 291, स्मृतिच० III p 79 परा मा III p 59 स्मृतिच० reads कार्यं वा ह्याधिक भवत् and परा मा read कार्यं वाप्यधिक

124 विश्वरूप (on या II 6), व्य मा p 295 अपरार्क p 608, स्मृतिच० III p 81, परा मा III p. 6? वीर० p 62 परा मा reads प्रवेश for प्रदेश and अपरार्क reads वेला प्रदेश विषय विश्वरूप has वेलाप्रदेश

125 विश्वरूप (on या II 6) व्य मा p 295 अपरार्क p 608 परा मा III p 62 स्मृतिच० III p 81, वीर० p 6? विश्वरूप reads साध्यार्थमान स्मृतिच० reads साध्यद्रव्यप्रमाण वीर० and अपरार्क read साध्य प्रमाण द्रव्य च व्य मा reads साध्यमप च

क्ष्मातिपतॄणां नामानि पीडां चाहर्तृदायकौ ।
क्षमालिङ्गानि चान्यानि पक्षं संकीर्त्य कल्पयेत् ॥१२६॥
देशश्चैव तथा स्थानं संनिवेशस्तथैव च ।
जातिः संज्ञा निवासश्च प्रमाणं क्षेत्रनाम च ॥ १२७ ॥
पितृपैतामहं चैव पूर्वराजानुकीर्तनम् ।
स्थावरेषु विवादेषु दशैतानि निवेशयेत् ॥ १२८ ॥
रागादीनां यदेकेन कोपितः करणे वदेत् ।
तदोमिति लिखेत्सर्वं वादिनः फलकादिषु ॥ १२९ ॥
अधिकान् शोधयेदर्थान् न्यूनांश्च प्रतिपूरयेत् ।
भूमौ निवेशयेत्तावद्यावत्पक्षः प्रतिष्ठितः ॥ १३० ॥
पूर्वपक्षं स्वभावोक्तं प्राड्विवाकोभिलेखयेत् ।
पाण्डुलेखेन फलके ततः पत्रे विशोधितम् ॥ १३१ ॥
अन्यदुक्तं लिखेदन्यद्योऽर्थिप्रत्यर्थिनां वचः ।
चौरवच्छासयेत्तं तु धार्मिकः पृथिवीपतिः ॥ १३२ ॥
सोल्लेपनं वा लभते ऽ्यहं सप्ताहमेव वा ।
मतिरुत्पद्यते यावद्विवादे वक्तुमिच्छत. ॥ १३३ ॥

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126 विश्वरूप, अपरार्क p 608, व्य मा. p. 295, परा. मा. III p. 62, स्मृतिच॰ III. p. 81, वीर॰ p. 62 व्य. मा. reads लेखयेत् for कल्पयेत्. विश्वरूप reads क्षमालिङ्गाद्यादिकालं.

127-128 अपरार्क p. 608, स्मृतिच॰ III. p 84, परा. मा. III. 62, वीर॰ p. 64. परा. मा reads देश काल तथात्मान संनिवेश and जातिसंज्ञाधिवासांश्च.

129 टोडरानन्द (which ascribes it to both नारद and कात्यायन), स. वि p. 79 (which ascribes it to गोभिल) reads अर्थिनः for वादिन॰.

130 विश्वरूप (on या II 6), अपरार्क p. 611, स्मृतिच॰ III. p. 90, परा. मा. III 65. अपरार्क and परा मा read शातयेत् and last pada as यावदर्थोभिवर्णित., परा मा reads छेदयेत् and प्रतिपूजयेत्, स्मृतिच॰ reads छेदयेत्.

131 मिता॰ (on या II. 6), अपरार्क p. 611, परा. मा. III. p. 67, स्मृतिच॰ III. p. 9, व्यवहारतत्त्व p. 204,

132 वीर॰ p. 71 (which reads त्रासयेत् for शासयेत्), व्य. मा. p. 297, व्यवहारतत्त्व p. 204

133 परा. मा. III. p. 66

यस्मात्कार्यसमारम्भाच्चिरायत्तेन विनिश्चयः ।
तस्मान्न लभते कालमभियुक्तस्तु कालभाक् ॥ १३४ ॥
मतिर्नोत्सहते यत्र विवादे कार्यमिच्छतो. ।
दातव्यस्तत्र काल. स्यादर्थिप्रत्यर्थिनोरपि ॥ १३५ ॥

प्रतिज्ञादोषा. (पूर्वपक्षदोषाः)

यश्च राष्ट्रविरुद्धश्च यश्च राज्ञा विवर्जितः ।
अनेकपदसंकीर्ण. पूर्वपक्षो न सिध्यति ॥ १३६ ॥
बहुप्रतिज्ञं यत्कार्यं व्यवहारेषु निश्चितम् ।
कामं तदपि गृह्णीयाद्राजा तत्त्वबुभुत्सया ॥ १३७ ॥
देशकालविहीनश्च द्रव्यसंख्याविवर्जित. ।
साध्यप्रमाणहीनश्च पक्षोनादेय इष्यते ॥ १३८ ॥
न्यायस्थं नेच्छते कर्तुमन्यायं वा करोत्ययम् ।
न लेखयति यस्त्वेवं तस्य पक्षो न सिध्यति ॥ १३९ ॥
अप्रसिद्धं निराबाधं निरर्थं निष्प्रयोजनम् ।
असाध्यं वा विरुद्धं वा पक्षाभासं विवर्जयेत् ॥ १४० ॥

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134 व्य. मा. p. 290, व्यवहारतत्त्व p 203 (reads विनिश्चितः)

135 व्य. मा p. 290.

136 विश्वरूप (on या. II 5), मिता॰ (on या II. 6), व्य. मा. p. 290, अपरार्क p. 609, स्मृतिच॰ III. 89, परा मा. III. p. 65, वीर॰ p. 68. अपरार्क, स्मृतिच॰, परा मा. and वीर॰ read पुराराष्ट्रविरुद्धश्च

137 मिता॰ (on या. II. 6.), अपरार्क p. 609, व्य. मा p 290, स्मृतिच॰ III p 89, परा. मा. III p. 65, वीर. 69, स. वि p. 89. व्य. मा. reads व्यवहारेष्वनिश्चितम्, स्मृतिच॰ reads व्यवहारे सुनिश्चितम्.

138 अपरार्क p. 609 (not named), स्मृतिच॰ III p. 84, व्य. मा. p. 297, परा. मा. III p. 61, वीर॰ p. 64, स. वि. p. 87 स्मृतिच॰ and स. वि read क्रियाप्रमाणहीनश्च, वीर॰ reads क्रियामानविहीनश्च

139 विश्वरूप on या. II 6 (no name), स्मृतिच॰ III p. 89, वीर॰ p. 69. विश्वरूप reads न्याय्यं मे नेच्छते and वीर॰ reads न्याय्यं यद्यच्छते

140 विश्वरूप on या. II 6 (no name), मिता॰ on या. II 6 (no name), वीर॰ p. 66, परा. मा. III 61 and व्य. मा. p. 13 (as स्मृत्यन्तर) विश्वरूप reads सदोषं च for निराबाधं and पक्षं राजा विवर्जयेत्.

प्रतिज्ञादोषनिर्मुक्त साध्यं सत्कारणान्वितम् ।
निश्चितं लोकसिद्धं च पक्षं पक्षविदो विदु ॥ १४१ ॥
स्वल्पाक्षर प्रभूतार्थो नि संदिग्धो निराकुल ।
विरोधिकारणैर्मुक्तो विरोधिप्रतिषेधक ॥ १४२ ॥
यदा त्वेवविध पक्ष कल्पित पूर्ववादिना ।
दद्यात्तत्पक्षसवद्धं प्रतिवादी तदोत्तरम् ॥ १४३ ॥
श्राव्यमाणोऽर्थिना यत्र यो ह्यर्थी न विघातित ।
दानकालेऽथवा तूष्णीं स्थित्त सोऽर्थोऽनुमोदित ॥ १४४ ॥

(उत्तर सद्यो दात व कालान्तरेण वा दातव्यम्)

श्रुत्वा लेख्यगत त्वर्थं प्रत्यर्थी कारणाद्यदि ।
काल विवादे याचेत तस्य देयो न सशय ॥ १४५ ॥
सद्यो वैकाहपञ्चाहन्यह वा गुरुलाघवात् ।
लभेतासौ त्रिपक्ष वा सप्ताह वा ऋणादिषु ॥ १४६ ॥
काल शक्ति विदित्वा तु कार्याणा च बलाबलम् ।
अल्पं वा बहु वा काल दद्यात्प्रत्यर्थिने प्रभु ॥ १४७ ॥

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141 विश्वरूप on या II 6 (no name), कृत्यकल्पतरु (ascribes this and the following two verses to both कात्यायन and बृहस्पति) व्य मा p 291 (ascribes this and the next to both कात्या॰ and बृह॰) व्यवहारतत्त्व p 203 (ascribes 141-143 to both), टोडरानन्द, परा मा III p 61 (which ascribes this and the next to बृहस्पति) अपरार्क p 610 ascribes to बृहस्पति, so does स्मृतिच॰ III p 90

142 कृत्यकल्पतरु, व्य मा p 291, टोडरानन्द (which reads विरोधिकरणै and प्रतिरोधक), परा मा III 61 (which reads अल्पाक्षरस्त्वसन्दिग्धो बह्वर्थश्चाप्यनाकुल । युक्तो विरोधिकरण) व्यवहारतत्त्व p 203 204

143 कृत्यकल्पतरु, टोडरानन्द व्यवहारतत्त्व p 204

144 कृत्यकल्पतरु

145 अपरार्क p 619, स्मृतिच॰ III p 94, व्य मा p 298, परा मा III p 69 वीर॰ p 138 व्य मा reads लखयत for लेख्यगत, अपरार्क and वीर॰ read लेखयतो

146 व्य मा p 298, स्मृतिच॰ III p 95 (which reads सद्य एकाहपञ्चाहो)

147 स्मृतिच॰ III p 95 व्य मा p 298

द्विनं मासार्धमासौ वा ऋतु- संवत्सरोपि वा।
क्रियारिथत्यनुरूपस्तु देय- काल- परेण तु ॥ १४८ ॥
व्यपैति गौरवं यत्र विनाशस्त्याग एव वा।
कालं तत्र न कुर्वीत कार्यमात्ययिकं हि तत् ॥ १४९ ॥
धेनावनडुहि क्षेत्रे स्त्रीषु प्रजनने तथा।
न्यासे याचितके दत्ते तथैव क्रयविक्रये ॥ १५० ॥
कन्याया दूषणे स्तेये कलहे साहसे निधौ।
उपधौ कौटसाक्ष्ये च सद्य एव विवादयेत् ॥ १५१ ॥
साहसस्तेयपारुष्यगोभिशापे तथात्यये।
भूमौ विवादयेत् क्षिप्रमकालेपि बृहस्पतिः ॥ १५२ ॥
सद्य- कृतेषु कार्येषु सद्य एव विवादयेत्।
कालातीतेषु वा कालं दद्यात्प्रत्यर्थिने प्रभुः ॥ १५३ ॥
सद्यः कृते सद्य एव मासातीते दिनं भवेत्।
पञ्चाब्दिके त्रिरात्रं स्यात्सप्ताहं द्वादशाब्दिके ॥ १५४ ॥
विंशत्यब्दे दशाहं तु मासार्धं वा लभेत सः।
मासं त्रिंशत्समातीते त्रिपक्षं परतो भवेत् ॥ १५५ ॥
कालं संवत्सरादर्वाग् स्वयमेव यथेप्सितम्।
संवत्सरं जडोन्मत्तमनस्के व्याधिपीडिते ॥ १५६ ॥

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148 अपरार्क p. 619, स्मृतिच० III p. 96, वीर० p. 138

149 स्मृतिच० III p. 93, अपरार्क p. 619, वीर० p. 140.

150 अपरार्क p 619, स्मृतिच० III p. 94, परा. मा III p 71, वीर० p. 140.

151 अपरार्क p. 620, स्मृतिच० III p. 94, परा. मा III p 72, वीर० p. 140.

152 वीर० p. 140 (ascribes both to बृहस्पति and कात्यायन), परा. मा. III p. 71 (ascribes it to बृहस्पति)

153 स्मृतिच० III p. 94, अपरार्क p. 619, वीर० p. 136 (reads सद्य कृतेषु कार्येषु), व्यवहारतत्त्व p 205.

154 अपरार्क p 619, स्मृतिच० III p. 95, व्य मा. p 298, वीर० p 138. व्य. मा. reads सद्यःकृते सद्यो वादः समातीते परा मा III p 70 ascribes this and the following two verses to बृहस्पति

155 अपरार्क p 619, स्मृतिच० III p 95 व्य. मा p. 298, वीर० p 138. अपरार्क reads त्रिंशत्परे for त्रिंशदब्द.

156 स्मृतिच० III p. 95, परा. मा. III p. 70 (latter half), अपरार्क p. 619 (has only first half as कालार्द्धसंवत्सरात्).

दिगन्तरप्रपन्ने वा अज्ञातार्थे च वस्तुनि ।
मूलं वा साक्षिणो वाथ परदेशे स्थिता यदा ॥ १५७ ॥
तत्र कालो भवेत्पुंसामा स्वदेशसमागमात् ।
दत्तेपि काले देय स्यात्पुन' कार्यस्य गौरवात् ॥१५८॥
पूर्वपक्षश्रुतार्थस्तु प्रत्यर्थी तदनन्तरम् ।
पूर्वपक्षार्थसंबन्धं प्रतिपक्ष निवेदयेत् ॥ १५९ ॥
आचारद्रव्यदानेष्टकृत्योपस्थाननिर्णये ।
नोपस्थितो यदा कश्चिच्छले तत्र न कारयेत् ॥ १६० ॥
दैवराजकृतो दोषस्तस्मिन्काले यदा भवेत् ।
अबाधत्यागमात्रेण न भवेत्स पराजित. ॥ १६१ ॥
दैवराजकृतं दोषं साक्षिभि प्रतिपादयेत् ।
जैह्म्येन वर्तमानस्य दण्डो दाप्यस्तु तद्धनम् ॥ १६२ ॥
अभियुक्तोभियोक्तारमभियुञ्जीत कर्हिचित् ।
अन्यत्र दण्डपारुष्यस्तेयसंग्रहणात्ययात् ॥ १६३ ॥
याथान्यस्मिन्समाचार पारंपर्यक्रमागत' ।
तं प्रतीक्ष्य यथान्यायमुत्तर दापयेन्नृप ॥ १६४ ॥

(चतुर्विधमुत्तरम्)

सत्यं मिथ्योत्तरं चैव प्रत्यवस्कन्दन तथा ।
पूर्वन्यायविधिश्चैवमुत्तर स्याच्चतुर्विधम् ॥ १६५ ॥
श्रुत्वा भाषार्थमन्यस्तु यदा त प्रतिषेधति ।
अर्थत' शब्दतो वापि मिथ्या तज्ज्ञेयमुत्तरम् ॥ १६६॥

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157 स्मृतिच० III p 95 परा मा III p 70, अपरार्क p 619
158 स्मृतिच० III (first half), परा मा III p 71
159 व्य मा p 299 (ascribes to कात्यायन and नारद)
160-62 व्य मा p 299
163 व्य मा p 299
164 अपरार्क p 619 स्मृतिच० III p 96, स वि p 92 अपरार्क reads यो वा यस्मिन् and परीक्ष्य for प्रतीक्ष्य
165 मिता० (on या II 7) व्य मा p 299, वीर० p 74
166 अपरार्क p 612 व्य मा p 301, वीर० p 76, व्यवहारतत्त्व p 207 व्य मा reads यदि for यदा

अभियुक्तोभियोगस्य यदि कुर्यात्तु निह्नवम् ।
मिथ्या तत्तु विजानीयादुत्तरं व्यवहारतः ॥ १६७ ॥
साध्यस्य सत्यवचनं प्रतिपत्तिरुदाहृता ॥ १६८ ॥
मिथ्यैतन्नाभिजानामि तदा तत्र न संनिधिः ।
अजातश्चास्मि तत्काल इति मिथ्या चतुर्विधम् ॥१६९॥
योर्थिनार्थः समुद्दिष्टः प्रत्यर्थी यदि तं तथा ।
प्रपद्य कारणं ब्रूयादाधर्षं गुरुरब्रवीत् ॥ १७० ॥
आचारेणावसन्नोपि पुनर्लेखयते यदि ।
सोभिधेयो जितः पूर्वं प्राङ्न्यायस्तु स उच्यते ॥१७१॥
विभावयामि कुलिकैः साक्षिभिर्लिखितेन वा ।
जितश्चैव मयायं प्राक्प्राङ्न्यायस्त्रिप्रकारकः ॥ १७२ ॥

[उत्तराभासा उत्तरदोषा वा]

अप्रसिद्धं विरुद्धं यद्यत्यल्पमतिभूरि च ।
संदिग्धासंभवाव्यक्तमन्यार्थं चातिदोषवत् ॥ १७३ ॥
अव्यापकं व्यस्तपदं निगूढार्थं तथाकुलम् ।
व्याख्यागम्यमसारं च नोत्तरं शस्यते बुधैः ॥ १७४ ॥

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167 मिता० (on या. II. 7), व्य. मा p. 301, स्मृतिच० III p. 97, वीर० p. 75, स. वि. p. 92 मिता० and स. वि. read कुर्यादपह्नवम्.

168 मिता० on या. II. 7, स्मृतिच० III p. 97, स. वि. p. 92, स्मृतिच० reads तथ्यवचनं. व्य. मा. p. 300 attributes this to व्यास.

169 मिता० (on या. II. 7), अपरार्क p. 612, स्मृतिच० III p. 98, स. वि. p. 92. अपरार्क reads तदा मे सुदसंनिधि.

170 व्य मा. p. 307, टोडरानन्द, वीर० p. 78. वीर० reads अर्थिनाभिहितो योर्थः and आधर्षं भृगुरब्रवीत्, टोडरानन्द reads आधर्षं मनुरब्रवीत्. व्य. मा. reads अर्थिनाभिहितो योर्थः and reads last line as प्रसन्नरछन्दन हि तत् and ascribes it to बृहस्पति.

171 मिता० (on या. II 7), वीर० p. 82 (refers to both कात्या० and बृह०).

172 स्मृतिच० III p. 98, वीर० p. 82.

173 अपरार्क p. 614, स्मृतिच० III p 99, परा. मा. III. p. 73, वीर० p 84.

174 स्मृतिच० p. 99. व्यवहारतत्त्व p. 207 reads असत्यस्तपदव्यापि निगूढार्थं and says that भवदेव in his व्यवहारतत्त्व explained अस्तव्यस्तपदव्यापि as अनाविर्तार्थपदव्याप्त.

यद्व्यस्तपदमन्यापि निगूढार्थं तथाकुलम् ।
व्याख्यागम्यमसारं च नोत्तरं स्वार्थसिद्धये ॥ १७५ ॥
चिह्नाकारसहस्रं तु समयं चाविजानता ।
भाषान्तरेण वा प्रोक्तमप्रसिद्धं तदुत्तरम् ॥ १७६ ॥
प्रतिदत्तं मया बाल्ये प्रतिदत्तं मया नहि ।
यदेवमाह विज्ञेयं विरुद्धं तद्विहोत्तरम् ॥ १७७ ॥
जितः पुरा मयाय च त्वर्थेस्मिन्निति भाषितुम् ।
पुरा मयायमिति यत्तदून चोत्तरं स्मृतम् ॥ १७८ ॥
गृहीतमिति वाच्ये तु कार्यं तेन कृत मया ।
पुरा गृहीतं यद्द्रव्यमिति यच्चातिभूरि तत् ॥ १७९ ॥
देयं मयेति वक्तव्ये मयादेयमितीदृशम् ।
संदिग्धमुत्तरं ज्ञेयं व्यवहारे बुधैस्तदा ॥ १८० ॥
बलायेलन चैतेन साहसं स्थापितं पुरा ।
अनुक्रमेतन्मन्यन्ते तदन्यार्थमितीरितम् ॥१८१॥
अस्मै दत्तं मया सार्धं सहस्रमिति भाषिते ।
प्रतिदत्तं तदर्धं यत्तद्विहाव्यापक स्मृतम् ॥ १८२ ॥
पूर्ववादी क्रियां यावत्सम्यङ्नैव निवेशयेत् ।
मया गृहीतं पूर्वं नो तद्व्यस्तपदमुच्यते ॥ १८३ ॥
तत्किं सामरसं काश्चिद्गृहीतं प्रदास्यति ।
निगूढार्थं तु तत्प्रोक्तमुत्तरं व्यवहारतः ॥ १८४ ॥

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175 अपरार्क p 614, परा मा III p 73, व्य मा p 303 वीर० p 84 मिता० (on या II 7) cites as स्मृत्यन्तर

176 177 स्मृतिच० III p 93, परा मा III p 73, वीर० p 84

178 स्मृतिच० III p 99 परा मा III p 74, वीर० p 84 परा मा reads भाषित and वीर० reads निवेशित

179 स्मृतिच० III p 100 परा मा III p 74, वीर० p 84 परा मा reads इति चेद्वाक्य

180 स्मृतिच० III p 100, परा मा III p 74, वीर० p 84

181 स्मृतिच० III p 100, परा मा III p 74, वीर० p 85

182 स्मृतिच० III p 101 परा मा III p 74

183 स्मृतिच० III p. 101, परा मा p 74

184 स्मृतिच० III p 101 परा मा p 74 (which reads किंचिद्गृहीत), म नि p 94 (which reads अगृहीत न दास्यति)

किं तेनैव सदा देयं मया देयं भवेदिति ।
एतदाकुलमित्युक्तमुत्तरं तद्विदो विदुः ॥ १८५ ॥
काकस्य दन्ता नो सन्ति सन्तीत्यादि यदुत्तरम् ।
असारमिति तत्त्वेन सम्यङ्नोत्तरमिष्यते ॥ १८६ ॥
प्रस्तुतादल्पमव्यक्तं न्यूनाधिकमसङ्गतम् ।
अव्याप्यसारं संदिग्धं प्रतिपक्षं न लङ्घयेत् ॥ १८७ ॥
संदिग्धमन्यत्प्रकृतादल्पस्वमतिभूरि च ।
पक्षैकदेशव्याप्येव तत्तु नैवोत्तरं भवेत् ॥ १८८ ॥
पक्षैकदेशे यत्सत्यमेकदेशे च कारणम् ।
मिथ्या चैवैकदेशे च सङ्करात्तदनुत्तरम् ॥१८९॥
न चैकस्मिन्विवादे तु क्रिया स्याद्वादिनोर्द्वयोः ।
न चार्थसिद्धिरुभयोर्न चैकत्र क्रियाद्वयम् ॥ १९० ॥

(वादहानिकराणि)

शपथं कारणं पूर्वमन्यद्गुरुतरं यदि ।
प्रतिवाक्यगतं ब्रूयात्साध्यते तद्धि नेतरत् ॥ १९१ ॥
यथार्थमुत्तरं दद्याद्यच्छन्तं च दापयेत् ।
सामभेदादिभिर्मार्गैर्यावत्सोऽर्थं समुत्थित ॥ १९२ ॥
मोहाद्वा यदि वा शाठ्याद्यन्नोक्तं पूर्ववादिना ।
उत्तरान्तर्गतं चापि तद्ग्राह्यमुभयोरपि ॥ १९३ ॥

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185 स्मृतिच॰ III p 101, परा मा III p 75
186 स्मृतिच॰ III p 101, परा मा III p 75, वीर॰ p 84 (which reads वचेन सम नोत्तरमिष्यते)
187 व्य मा p 303
188 अपरार्क p 614, व्य मा p 303, मिता॰ (on या II 7) cites as स्मृत्यन्तर
189 मिता॰ (on या II 7) अपरार्क 613, व्य मा p 303 स्मृतिच॰ III p 101, वीर॰ p 85, परा मा III p 77
190 व्य मा p 297, मिता॰ (on या II 7), अपरार्क p 613, वीर॰ p 85, परा मा III p 77, स्मृतिच॰ III p 102
191 अपरार्क p 614 व्य मा p. 307, स्मृतिच॰ III p. 110 व्य. मा. reads प्रतिवाक्ये गतिं
192 अपरार्क p 615, वीर॰ p 74 (has only first half).
193 अपरार्क p 615, स्मृतिच॰ III p 91, वीर॰ p 74.

यद्व्यस्तपदमव्यापि निगूढार्थं तथाकुलम् ।
व्याख्यागम्यमसारं च नोत्तरं स्वार्थसिद्धये ॥ १७५ ॥
चिह्नाकारसहस्रं तु समयं चाविजानता ।
भाषान्तरेण वा प्रोक्तमप्रसिद्धं तदुत्तरम् ॥ १७६ ॥
प्रतिदत्तं मया वाच्ये प्रतिदत्तं मया नहि ।
यदेवमाह विज्ञेयं विरुद्धं तदिहोत्तरम् ॥ १७७ ॥
जितः पुरा मयायं च त्वयैस्मिन्निति भाषितुम् ।
पुरा मयायमिति यत्तदूनं चोत्तरं स्मृतम् ॥ १७८ ॥
गृहीतमिति वाच्ये तु कार्यं तेन कृतं मया ।
पुरा गृहीतं यद्द्रव्यमिति यच्चातिभूरि तत् ॥ १७९ ॥
देयं मयेति वक्तव्ये मयादेयमितीदृशम् ।
संदिग्धमुत्तरं ज्ञेयं व्यवहारे बुधैस्तदा ॥ १८० ॥
बलात्पलेन चैतेन साहसं स्थापितं पुरा ।
अनुक्तमेतन्मन्यन्ते तदन्यार्थमितीरितम् ॥१८१॥
अस्मै दत्तं मया सार्धं सहस्रमिति भाषिते ।
प्रतिदत्तं तदर्धं यत्तदिहाव्यापकं स्मृतम् ॥ १८२ ॥
पूर्वपादी क्रियां यावत्सम्यङ्नैव निवेशयेत् ।
मया गृहीतं पूर्वं नो तद्व्यस्तपदमुच्यते ॥ १८३ ॥
शल्कि तामरसं कश्चिद्गृहीत प्रदास्यति ।
निगूढार्थं तु तत्प्रोक्तमुत्तरं व्यवहारतः ॥ १८४ ॥

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175 अपरार्क p 614, परा मा III p 73, व्य मा p 303, वीर० p 84 मिता० (on या II 7) cites as स्मृत्यन्तर
176 177 स्मृतिच० III p 99, परा मा III p 73, वीर० p 84
178 स्मृतिच० III p 99 परा मा III p 74 वीर० p 84 परा मा reads भाषित and वीर० reads विवक्षिते
179 स्मृतिच० III p 100 परा मा III p 74, वीर० p 84 परा मा reads हीनं चेद्युक्ति
180 स्मृतिच० III p 100, परा मा III p 74, वीर० p 84
181 स्मृतिच० III p 100, परा मा III p 74, वीर० p 85
182 स्मृतिच० III p 101 परा मा III p 74
183 स्मृतिच० III p. 101 परा मा p 74
184 स्मृतिच० III p 101 परा मा p 74 (which reads किंचिद्गृहीत), वी मि p. 84 (which reads अगृहीत न दास्यति)

किं तेनैव सदा देयं मया देयं भवेदिति।
यत्तदाकुलमित्युक्तमुत्तरं तद्विदो विदुः ॥ १८५ ॥
काकस्य दन्ता नो सन्ति सन्तीत्यादि यदुत्तरम्।
असारमिति तत्त्वेन सम्यग्नोत्तरमिष्यते ॥ १८६ ॥
प्रस्तुतादल्पमव्यक्तं न्यूनाधिकमसङ्गतम्।
अव्याप्यसारं संदिग्धं प्रतिपक्षं न लङ्घयेत् ॥ १८७ ॥
संदिग्धमन्यत्प्रकृतादत्यल्पमतिभूरि च।
पक्षैकदेशव्याप्येव तत्तु नैवोत्तरं भवेत् ॥ १८८ ॥
पक्षैकदेशे यत्सत्यमेकदेशे च कारणम्।
मिथ्या चैवैकदेशे च सङ्करात्तदनुत्तरम् ॥१८९॥
न चैकस्मिन्विवादे तु क्रिया स्याद्वादिनोर्द्वयोः।
न चार्थसिद्धिरुभयोर्न चैकत्र क्रियाद्वयम् ॥ १९० ॥

(वादहानिकराणि)

प्रपद्य कारणं पूर्वमन्यदुत्तरं यदि।
प्रतिवाक्यगतं ब्रूयात्साध्यते तद्धि नेतरत् ॥ १९१ ॥
यथार्थमुत्तरं दद्याद्यच्छन्तं च दापयेत्।
सामभेदादिभिर्मार्गैर्यावत्सोर्थः समुत्थितः ॥ १९२ ॥
मोहाद्वा यदि वा शाठ्याद्यन्नोक्तं पूर्ववादिना।
उत्तरान्तर्गतं चापि तद्ग्राह्यमुभयोरपि ॥ १९३ ॥

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185 स्मृतिच॰ III p. 101, परा. मा III p 75
186 स्मृतिच॰ III p. 102, परा. मा III p. 75, वीर॰ p. 84 (which reads तत्त्वेन सम्यं नोत्तरमिष्यते).
187 व्य. मा. p 303.
188 अपरार्क p. 614, व्य. मा p 303, मिता॰ (on या II. 7) cites as स्मृत्यन्तर.
189 मिता॰ (on या. II. 7), अपरार्क. 613, व्य मा. p. 303, स्मृतिच॰ III p. 101, वीर॰ p. 85, परा. मा. III. p 77
190 व्य. मा. p. 297, मिता॰ (on या II 7), अपरार्क p. 613, वीर॰ p. 85, परा. मा. III p. 77, स्मृतिच॰ III p. 102.
191 अपरार्क p. 614, व्य. मा p 307, स्मृतिच॰ III p 110, व्य. मा. reads प्रतिवाक्ये गतिं.
192 अपरार्क p. 615, वीर॰ p. 74 (has only first half).
193 अपरार्क p. 615, स्मृतिच॰ III p. 91, वीर॰ p. 74.

उपायैश्चोद्यमानस्तु न दद्यादुत्तरं तु यः ।
अतिक्रान्ते सप्तरात्रे जितोसौ दातुमर्हति ॥ १९४ ॥
धावयित्वा यथाकार्यं त्यजेदन्यद्ववेदसौ ।
अन्यपक्षाश्रयस्तेन कृतो वादी स हीयते ॥ १९५ ॥
न मयाभिहितं कार्यमभियुज्य परं वदेत् ।
विप्लुषश्च भवेदेवं हीनं तमपि निर्दिशेत् ॥ १९६ ॥
लेखयित्वा तु यो वाक्यं हीनं वाप्यधिकं पुन ।
वदेद्वादी स हीयेत नाभियोगं तु सोर्हति ॥ १९७ ॥
सभ्याश्च साक्षिणश्चैव क्रिया ज्ञेया मनीषिभिः ।
तां क्रियां द्वेष्टि यो मोहात्क्रियाद्वेषी स उच्यते ॥१९८॥
आह्वानादनुपस्थानात्सद्य एव प्रहीयते ॥१९९॥
वृहीत्युक्तोपि न ब्रूयात्सद्यो बन्धनमर्हति ।
द्वितीयेहनि दुर्वेद्वेर्विद्यात्तस्य पराजयम् ॥ २०० ॥
व्याजेनैव तु यत्रासौ दीर्घकालमभीप्सति ।
सापदेशं तु तद् विद्याद्वादहानिकरं स्मृतम् ॥ २०१ ॥
अन्यवादी पणान्पञ्च क्रियाद्वेषी पणान्दश ।
नोपस्थाता दश द्वौ च षोडशैव निरुत्तर ।
आहूतप्रपलायी च पणान्प्राहास्तु विंशतिम् ॥२०२॥

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194 परा. मा III p 81, स्मृतिच॰ III p 105

195 अपरार्क p 622, स्मृतिच॰ III p 106, वीर॰ p 98, स वि p 102.

106 अपरार्क p 622, स्मृतिच III. p 106 वीर॰ p 98, स वि p 102

197 अपरार्क p 622, स्मृतिच॰ III p. 106, परा. मा III p 81, वीर॰ p 98, स वि p 102

198 स्मृतिच॰ III p 106, परा मा III p 82, वीर॰ p 98, स वि p 102

199 परा. मा III p 82, वीर॰ p 98 स्मृतिच॰ III p 107, स. वि p 102

200 स्मृतिच॰ III p 107, परा मा III 82 वीर p 98 (reads सद्यस्त-दनमर्हति), स वि. p 102

201 अपरार्क p 622 स्मृतिच॰ III p 107, वीर॰ p 98 (reads--कालमति क्रमेत्)

202 स्मृतिच॰ III p 107, परा मा III p 83 वीर॰ p 99, स वि 103 स्मृतिच॰ reads आहूतविपलायी and स वि reads आहूतव्यपवादी (!)

त्रिराहूतमनायान्तमाहूतप्रपलायिनम् ।
पञ्चरात्रमतिक्रान्तं विनयेत्तं महीपतिः ॥ २०३ ॥
श्रावितव्यवहाराणामेकं यत्र प्रभेदयेत् ।
वादिनं लोभयेच्चैव हीनं तमिति निर्दिशेत् ॥ २०४ ॥
भयं करोति भेदं वा भीषणं वा निरोधनम् ।
एतानि वादिनोऽर्थस्य व्यवहारे स हीयते ॥ २०५ ॥
दोषानुरूपं संग्राह्य पुनर्वादो न विद्यते ।
उभयोर्लिखिते वाच्ये प्रारब्धे कार्यनिश्चये ।
अयुक्तं तत्र यो ब्रूयात्तस्मादर्थात्स हीयते ॥ २०६ ॥
साक्षिणो यस्तु निर्दिश्य कामतो न विवादयेत् ।
स वादी हीयते तस्मात् त्रिंशद्रात्रात्परेण तु ॥ २०७ ॥
पलायनानुत्तरत्वादन्यपक्षाश्रयेण च ।
हीनस्य गृह्यते वादो न स्ववाक्यजितस्य तु ॥ २०८॥
यो हीनवाक्येन जितस्तस्योद्धारं विदुर्बुधाः ।
स्ववाक्यहीनो यस्तु स्यात्तस्योद्धारो न विद्यते ॥२०९॥
आवेद्य प्रगृहीतार्थाः प्रशमं यान्ति ये मिथः
सर्वे द्विगुणदण्ड्याः स्युः विप्रलम्भान्नृपस्य ते ॥२१०॥

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203 स्मृतिच॰ III p 103 परा मा p 83, वीर॰ p 99

204 स्मृतिच॰ III p 108, वीर॰ p 99 (reads तमपि for तमिति), स वि p 103 (reads तमपि)

205 स वि p 103

206 अपरार्क p 615 (reads अयुक्त for अयुक्तं) परा मा III pp 83 84, वीर॰ p 74 स्मृतिच॰ III p 109 परा मा and स्मृतिच॰ read वाक्ये for वाच्ये

207 अपरार्क p 622, स्मृतिच॰ III p 110

208 व्य मा p 310, वीर॰ p 103 स्मृतिच॰ III p 111 व्य मा ascribes it to बृहस्पति

209 स्मृतिच॰ III p 111 वीर॰ p 103 (reads हीनविहेन)

210 स्मृतिच॰ III p 112 परा मा III p 84 वीर॰ p 104 परा मा and वीर॰ read प्रगृहातार्थं

(क्रियापादः)

कारणात्पूर्वपक्षोपि ह्युत्तरत्वं प्रपद्यते ।
अतः क्रिया तदा प्रोक्ता पूर्वपक्षप्रसाधिनी ॥ २११ ॥
शोधिते लिखिते सम्यगेवं निर्दोष उत्तरे ।
प्रत्यर्थिनोर्थिनो चापि क्रियाकरणमिष्यते ॥ २१२ ॥
वादिना यदभिप्रेतं स्वयं साधयितुं स्फुटम् ।
तत्साध्यं साधनं येन तत्साध्यं साध्यतेखिलम् ॥२१३॥

(प्रमाणानि, तेषां च बलाबलादिविचारः)

लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं विदुः ।
लेख्योद्देशस्तु युक्तिः स्याद्दिव्यानीह विषादयः ॥ २१४ ॥
पूर्ववादेप्यि लिखिते यथाक्षरमशेषतः ।
अर्थी तृतीयपादे तु क्रियया प्रतिपादयेत् ॥ २१५ ॥
कार्यं हि साध्यमित्युक्तं साधनं तु क्रियोच्यते ।
द्विभेदा सा पुनर्ज्ञेया दैविकी मानुषी तथा ।
मानुषी लेख्यसाक्ष्यादिर्घटादिर्दैविकी मता ॥ २१६ ॥
संभवे साक्षिणां प्राज्ञो दैविकीं वर्जयेत्क्रियाम् ।
संभवे तु प्रयुञ्जानो दैविकीं हीयते ततः ॥ २१७ ॥
यद्येको मानुषीं ब्रूयादन्यो ब्रूयात्तु दैविकीम् ।
मानुषीं तत्र गृह्णीयान्न तु दैवीं क्रियां नृपः ॥२१८॥

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211 अपरार्क p. 624, परा. मा. III p. 87, वीर॰ p. 79.

212 स्मृतिच॰ III p 118, वीर॰ p. 02, स. वि. p. 105 (reads क्रिया कारणमिष्यते)

213 व्य. मा. p. 334, वीर॰ p. 107.

214 वीर॰ p 110, परा. मा. III. p. 91 (reads साक्षिणो लिखितं भुक्तिः and लिख्योद्देशस्तु युक्तिः).

215 वीर॰ p 111.

216 अपरार्क p 616.

217 स्मृतिच III p 116

218 मिता (on या. II 22), व्य. मा. p 315, अपरार्क p. 628, स्मृतिच॰ III. p. 116, परा. मा III 87, वीर॰ p. 111.

यद्येकदेशव्याप्तापि क्रिया विद्येत मानुषी ।
सा ग्राह्या न तु पूर्णापि दैविकी वदतां नृणाम् ॥२१९॥
पञ्चप्रकारं दैवं स्यान्मानुषं त्रिविधं स्मृतम् ॥ २२० ॥
क्रियां बलवतीं मुक्त्वा दुर्बलां योऽवलम्बते ।
स जयेऽवधृते सभ्यैः पुनस्तां नाप्नुयात् क्रियाम् ॥२२१॥
सारभूतं पदं मुक्त्वा असाराणि बहून्यपि ।
संसाधयेत्क्रिया या तु तां जह्यात्सारवर्जिताम् ॥
पक्षद्वयं साधयेद्या तां जह्याद्दूरतः क्रियाम् ॥ २२२ ॥
क्रिया न दैविकी प्रोक्ता विद्यमानेषु साक्षिषु ।
लेख्ये च सति वादेषु न दिव्यं न च साक्षिणः ॥२२३॥
कालेन हीयते लेख्यं दूषितं न्यायतस्तथा ।
अलेख्यसाक्षिके दैवीं व्यवहारे विनिर्दिशेत् ।
दैवसाध्ये पौरुषेयीं न लेख्यं वा प्रयोजयेत् ॥ २२४ ॥
पूगश्रेणिगणादीनां या स्थितिः परिकीर्तिता ।
तस्यास्तु साधनं लेख्यं न दिव्यं न च साक्षिणः ॥२२५॥
द्वारमार्गक्रियाभोगजलवाहादिके तथा ।
भुक्तिरेव हि गुर्वी स्यान्न लेख्यं न च साक्षिणः ॥२२६॥
दत्तादत्तेऽथभृत्यानां स्वामिना निर्णये सति ।
विक्रयादानसंबन्धे क्रीत्वा धनमयच्छति ॥ २२७ ॥

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219 मिता (on या II 22), व्य मा p 311, स्मृतिच. III p 116, परा मा III p 88, वीर॰ p. 111, अपरार्क reads प्राप्तापि for व्याप्तापि and न्याय्या for ग्राह्या व्य मा and वीर॰ also read प्राप्तापि

220 स्मृतिच॰ III p 124

221 मिता॰ (on या II. 80), व्य मा pp 281, 309, 336, वीर॰ p. 108

222 स्मृतिच॰ III p 116 (has first two lines), वीर॰ p 108

223 व्य मा pp 306, 308, 315, अपरार्क p 690 (which reads देया for प्रोक्ता), परा मा III p 88 (which reads क्रिया तु....प्राप्ता).

224 व्य मा p 340 (first line), स्मृतिच॰ III. p 149 (has only the half अलेख्य॰) वीर॰ p 113 114 (has last two lines)

225-228 स्मृतिच॰ III p 122, मिता॰ (on या II 22 without name), परा मा III pp 88-89, अपरार्क p 629, वीर॰ p 112

द्यूते समाह्वये चैव विवादे समुपस्थिते ।
साक्षिणः साधनं प्रोक्तं न दिव्यं न च लेख्यकम् ॥२२८॥
प्रक्रान्ते साहसे वादे पारुष्ये दण्डवाचिके ।
बलोद्भूतेषु कार्येषु साक्षिणो दिव्यमेव वा ॥ २२९ ॥
गूढसाहसिकानां तु प्राप्तं दिव्यैः परीक्षणम् ।
युक्तिचिह्नेङ्गिताकारवाक्यशुद्ध्यैर्द्विधैतैर्नृणाम् ॥ २३० ॥
उत्तमेषु च सर्वेषु साहसेषु विचारयेत् ।
सद्भावं दिव्यदृष्टेन सत्सु साक्षिषु वै भृगु ॥ २३१ ॥
समत्वं साक्षिणां यत्र दिव्यैस्तत्रापि शोधयेत् ।
प्राणान्तिकविवादेषु विद्यमानेषु साक्षिषु ।
दिव्यमालम्ब्यते वादी न पृच्छेत्तत्र साक्षिणः ॥ २३२ ॥
ऋणे लेख्यं साक्षिणो वा युक्तिलेशादयोऽपि वा ।
दैविकी वा क्रिया प्रोक्ता प्रजानां हितकाम्यया ॥२३३॥
चोदना प्रतिकालं च युक्तिलेशास्तथैव च ।
तृतीयः शपथः प्रोक्तः तैर्ऋणं साधयेत्क्रमात् ॥ २३४ ॥
अभीक्ष्णं चोद्यमानोऽपि प्रतिहन्यान्न तद्वचः ॥
त्रिः चतुः पञ्चकृत्वो वा परतोऽर्थं समाचरेत् ॥ २३५ ॥
चोदनाप्रतिघाते तु युक्तिलेशैः समन्वियात् ।
देशकालार्थसंबन्ध परिमाण क्रियादिभिः ॥ २३६ ॥

मिता॰ reads न दिव्यं for न लेख्यं and जलद हादिषुकिया, परा मा reads स्वामिनः for स्वामिना, अपरार्क reads दत्तादत्त तथादत्ते वीर॰ reads दत्तादत्तेषु and स्वामिनो and वाह्यादिषु क्रिया

229 अपरार्क p 629, स्मृतिच॰ III p 117 (which reads बलोद्भवषु), मिता॰ on या II 22 (दिव्यमेव च) परा मा III p 91, व्य वि p 107 (reads बलोद्भवेषु)

230 स्मृतिच॰ III p 117, वीर॰ p 113 (युक्तिचिह्नेङ्गिता॰)

231 स्मृतिच॰ III p 117, परा मा III p 90 (reads सर्वे तु दिव्य॰)

232 व्य. मा p. 310 अपरार्क p 630, स्मृतिच॰ III p 121, परा मा III p 90, वीर॰ p 114 व्य मा reads तत्र विशोधयेत् and दिव्यमाल म्बन स्मृतिच॰ reads प्राणान्तकविवादे वा.

233 स्मृतिच॰ III p 118, परा मा III p 91 (reads युक्तिलेश्यादयोऽपि वा) व्य वि p 107

234 237 परा मा III p 91 (reads युक्तिलेशस्तथैव and युक्तिलेशैः , सार्थेर

युक्तिष्वप्यसमर्थासु शपथैरेव निर्णयेत् ।
अर्थकालबलापेक्षैरग्न्यम्बुसुकृतादिभिः ॥ २३७ ॥

यत्र स्यात्सोपधं लेख्यं तद्राज्ञः श्रावितं यदि ।
दिव्येन शोधयेत्तत्र राजा धर्मासनस्थितः ॥ २३८ ॥

वाक्पारुष्ये च भूमौ च दिव्यं न परिकल्पयेत् ॥ २३९॥

स्थावरेषु विवादेषु दिव्यानि परिवर्जयेत् ।
साक्षिभिर्लिखितनार्थे(र्थं) भुक्त्या चैव प्रसाधयेत् ॥ २४० ॥

प्रमाणैर्हेतुना वापि दिव्येनैव तु निश्चयम् ।
सर्वेष्वेव विवादेषु सदा कुर्यान्नराधिपः ॥ २४१ ॥

लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं स्मृतम् ।
अनुमानं विदुर्हेतुं तर्कं चैव मनीषिणः ॥ २४२ ॥

पूर्वाभावे परेणैव नान्यथैव कदाचन ।
प्रमाणैर्वादिनिर्दिष्टैर्भुक्त्या लिखितसाक्षिभि ॥ २४३ ॥

न कश्चिदभियोक्तारं दिव्येषु विनियोजयेत् ।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः ॥ २४४ ॥

मिथ्योक्तौ स चतुष्पात्स्यात्प्रत्यवस्कन्दने तथा ।
प्राङ्न्याये स च विज्ञेयो द्विपात्संप्रतिपत्तिषु ॥२४५॥

न मर्दयेत्, बलापेक्षं). स्मृतिच० (III pp. 117-118) appears to attribute these four to नारद.

238 अपरार्क p 630, स्मृतिच० III p. 122, वीर० p 115 (reads राज्ञे) परा. मा. III p. 90 (यत्राजश्रावितं)

239 अपरार्क p. 629, स्मृतिच० III p. 121.

240 व्य. मा. p. 308.

241 अपरार्क p 628, स्मृतिच० III p 118, व्य. मा. p 314, स. वि. p. 107 (reads सर्वेष्वर्थविवादेषु)

242 स वि p. 107, वीर० p 115 (ascribes it to व्यास)

243 व्य. मा. p. 314, स्मृतिच० III p. 118 (first half), अपरार्क p 628 (first half). स्मृतिच० reads सर्वाभावे तु यत्नेन and अपरार्क reads तु यत्नेन for परेणैव.

244 परा. मा. III p. 152, वीर० p. 115.

245 स्मृतिच० III p. 120, स. वि. p. 108.

पराजयश्च द्विविधः परोक्तः स्वोक्त एव च ।
परोक्तः स्याद्दशविध स्वोक्त एकविधः स्मृतः ॥२४६॥
विवादान्तरसंक्रान्तिः पूर्वोत्तरविरुद्धता ।
दूषणं स्वक्रियोत्पत्तेः परवाक्योपपादनम् ॥ २४७ ॥
अनिर्देशश्च देशस्य निर्देशोद्देशकालयोः ।
साक्षिणामुपजापश्च विद्वेषो वचनस्य च ॥
अयुक्तदेशोपनय साक्षिप्रश्ननिराक्रिया ॥ २४८ ॥

(लेख्यम्)

लेख्यं तु द्विविधं प्रोक्तं स्वहस्तान्यकृतं तथा ।
असाक्षिमत्साक्षिमच्च सिद्धिर्देशस्थितेस्तयोः ॥ २४९ ॥
प्रायेण स्वहस्तेन लिखितं साक्षिवर्जितम् ।
स्वहस्तलेख्यं विज्ञेयं प्रमाणं तत्स्मृतं बुधैः ॥ २५० ॥
उत्पत्तिजातिसंज्ञां च धनसंख्यां च लेखयेत् ।
स्मरतेयं प्रयुक्तस्य नश्येदर्थस्त्वलेखितः ॥ २५१ ॥
लेख्यं तु साक्षिमत्कार्यमविलुप्ताक्षरक्रमम् ।
देशाचारस्थितियुतं समग्रं सर्ववस्तुषु ॥ २५२ ॥
वर्णवाक्यक्रियायुक्तमसंदिग्धं स्फुटाक्षरम् ।
अहीनक्रमचिह्नं च लेख्यं तत्सिद्धिमाप्नुयात् ॥२५३॥
चातुर्विद्यपुरश्रेणीगणपौरादिकस्थितिः ।
सिद्ध्यर्थं तु यल्लेख्यं तद्व्यवस्थापत्रकम् ॥ २५४ ॥
अभियोगे पराजिते प्रायश्चित्ते कृते जने ।
विशुद्धिपत्रकं ज्ञेयं तेभ्यः साक्षिसमन्वितम् ॥ २५५ ॥

246-248 स्मृ. च. II p. 254-255

249 परा मा III p. 130. This is नारद (उपोद्घात verse 135). वीर० p. 150 and मिता० on या II, 84 ascribe it to नारद. अपरार्क p. 686 cites the verse without naming the author.

250 स्मृतिच० III p. 136 परा. मा. III p. 127.

251-53 [illegible]

254 स्मृतिच० III p. 135 This is ascribed to पितामह by परा. मा. III p. 128

255 स्मृ च p. 25, वीर० p. 18[illegible] This is ascribed to पितामह by परा. मा. p. 128 and [illegible] p. 116.

उत्तमेषु समस्तेषु अभिशाप समागते ।
वृत्तानुवादलेख्य यत्तज्ज्ञेय सन्धिपत्रकम् ॥ २५६ ॥
सीमाविवादे निर्णीते सीमापत्र विधीयते ॥ २५७ ॥
राज्ञ स्वहस्तसयुक्त समुद्राचिह्नित तथा ।
राजकीय स्मृत लेख्य सर्वेष्वर्थेषु साक्षिमत् ॥ २५८ ॥
अर्थिप्रत्यर्थिवाक्यानि प्रतिज्ञा साक्षिवाक्तथा ।
निर्णयश्च यथा तस्य यथा चावधृत स्वयम् ॥२५९॥
एतद्यथाक्षर लेख्ये यथापूर्वं निवेशयेत् ।
अभियोक्त्रभियुक्ताना वचन प्राड्निवेशयेत् ॥ २६० ॥
सभ्याना प्राड्विवाकस्य कुल्याना वा तत परम् ।
निश्चय स्मृतिशास्त्रस्य मत तत्रैव लेखयेत् ॥ २६१ ॥
सिद्धेनार्थेन सयोज्यो वादी सत्कारपूर्वकम् ।
लेख्य स्वहस्तसयुक्त तस्मै दद्यात्तु पार्थिव ॥ २६२ ॥
सभासदश्च ये तत्र स्मृतिशास्त्रविद स्थिता ।
यथालेख्यविधौ तद्वत् स्वहस्त तत्र दापयेत् ॥२६३ ॥
अनेन विधिना लेख्य पश्चात्कार विदुर्बुधा ।
निरस्ता तु क्रिया यत्र प्रमाणेनैव वादिना ।
पश्चात्कारो भवत्तत्र न सर्वासु विधीयते ॥ २६४ ॥

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256 व्य म p 25 वीर० p 189

257 स्मृतिच० III p 137, परा III p 128 व्य म 25, वीर p 190

258 टोडरान द

259 स्मृतिच० III p 130 व्यवहारतत्त्व p 230 व्य मा p 309 (which reads यथाचारकृत) while व्य म p 353 has the same verse and reads प्रतिज्ञावचन तथा and तथा चावधृत

260 स्मृतिच० III p 130 व्य म p 309 (first half) reads लेख्य for लख्ये व्य मा p 353 has first half and reads तद्यथाक्षर

261 स्मृतिच० III p 130

262 अपरार्क p 684 (reads सिद्ध च येन) स्मृतिच० III 130 p वीर० p 195

263 स्मृतिच० III 130 व्य मा p 309 and p 353 वीर० p 195 (which reads स्वहस्त दापयेत)

264 स्मृतिच० III p 131, परा मा p 124 125 वीर० p 195

अन्यथाधादिहीनेभ्य इतरेषां प्रदीयते ।
धृतानुवादसंसिद्धं तच्च स्याज्जयपत्रकम् ॥ २६५ ॥

(लेख्यपरीक्षा)

राजाज्ञया समाहूय यथान्यायं विचारयेत् ।
लेख्याचारेण लिखितं साक्ष्याचारेण साक्षिण ॥२६६॥
वर्णवाक्यक्रियायुक्तमसंदिग्धं स्फुटाक्षरम् ।
अहीनकमचिह्नं च लेख्यं तत्सिद्धिमाप्नुयात् ॥ २६७ ॥
देशाचारयुतं वर्षमासपक्षादिवृद्धिमत् ।
ऋणिसाक्षिलेखकानां हस्ताङ्कं लेख्यमुच्यते ॥ २६८ ॥
स्थानभ्रष्टास्त्वपङ्क्तिस्था संदिग्धा लक्षणच्युता ।
यदा तु संस्थिता वर्णाः कूटलेख्यं तदा भवेत् ॥ २६९ ॥
देशाचारविरुद्धं यत्संदिग्धं क्रमवर्जितम् ।
कृतमस्वामिना यच्च साक्ष्यहीनं च दुष्यति ॥ २७० ॥
मत्तेनोपाधिभीतेन तथोन्मत्तेन पीडितैः ।
स्त्रीभिर्बालास्वतन्त्रैश्च कृतं लेख्यं न सिध्यति ॥२७१॥
ख्यापितं चेद् द्वितीयेह्नि न कश्चिद्विनिवर्तयेत् ।
तथा तत्स्यात्प्रमाणं तु मत्तोन्मत्तकृताद्दते ॥ २७२ ॥

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265 स्मृतिच॰ III p 131, परा मा III 125, वीर॰ p 195, टोडरानन्द. परा मा. reads विधायते for प्रदायते and वृद्धानुवादसंसिद्धि .

266 स्मृतिच॰ III p 139 (reads क्रियां समाहूय) and also p 195, परा मा III p 129, वीर॰ p 197 (reads राजा क्रिया), स वि. p 119 (also reads क्रियां समाहूय and suggests that समादाय would be good a reading)

267 स्मृतिच॰ III p 139, परा मा III p 129, स वि p 119.

268 स्मृतिच॰ III p 140

269 स्मृतिच॰ III p 141, परा मा III 130 (which reads अकान्तिस्था)

270 अपरार्क p 686, स्मृतिच॰ III p 141 (reads कृतं च स्वामिना), परा मा III p. 131, वीर॰ p 197,

271 स्मृतिच॰ p 141 (मत्तेनोपाधि॰) स वि p 119.

272 टोडरानन्द

साक्षिदोषाद्भवेद्दुष्टं पत्रं व लेखकस्य वा ।
धनिकस्योपधादोषात्तथा धारणिकस्य वा ॥ २७३ ॥
दुष्टेदुष्टं भवेल्लेख्यं शुद्धं शुद्धेर्विनिर्दिशेत् ।
तत्पत्रमुपधादुष्टं साक्षिलेखककारकैः ॥ २७४ ॥
प्रमाणस्य हि ये दोषा वक्तव्यास्ते विवादिना ।
गूढास्तु प्रकटाः सभ्यैः काले शास्त्रप्रदर्शनात् ॥ २७५॥
साक्षिलेखककर्तारः कूटतां यान्ति ते यथा ।
तथा दोषाः प्रयोक्तव्या दुष्टेर्लेख्यं प्रदुष्यति ॥ २७६ ॥
न लेखकेन लिखितं न दृष्टं साक्षिभिस्तथा ।
एवं प्रत्यर्थिनोक्ते तु कूटलेख्यं प्रकीर्तितम् ॥ २७७ ॥
नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत् ।
मिथ्याभियोगे दण्ड्यः स्यात्साध्यार्थाच्चापि हीयते ॥२७८॥
एवं दुष्टं नृपस्थाने यस्मिंस्तद्धि विचार्यते ।
विमृश्य ब्राह्मणैः सार्धं पत्रदोषान्निरूपयेत् ॥ २७९ ॥
येन ते कूटतां यान्ति साक्षिलेखककारकाः ।
तेन दुष्टं भवेल्लेख्यं शुद्धैः शुद्धिं विनिर्दिशेत् ॥ २८० ॥

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273 व्य मा p 338 अपरार्क p 686 परा मा III p 131 स्मृतिच॰ III p .142 (धनिकस्यापि वा), दंडरानद (reads धनिकस्योपधालेख्य), वीर॰ p 197.

274 व्य मा p 338, वीर॰ p 197

275 स्मृतिच॰ III p 142 and p 192, परा. मा. III p 132, अपरार्क 671 व्य म p. 39, वीर॰ p 164

276 स्मृतिच॰ III p 142 परा मा III p 132 वीर॰ p 199

277 अपरार्क p 689, स्मृतिच॰ III p 143 परा मा III p 132, वीर॰ p 198

278 स्मृतिच॰ III p 143, परा मा III p 132 (reads तथ्येन हि प्रमाणं तु)

279 स्मृतिच॰ III p 143, अपरार्क p 689, परा मा III p 132 133 (attributes to बृहस्पति)

280 स्मृतिच॰ III p 143 परा मा III p 133

धनिकेन स्वहस्तेन लिखितं साक्षिवर्जितम् ।
भवेत्कूटं न चेत्कर्ता ऋणं होति विभावयेत् ॥ २८१ ॥
दत्तं लेख्ये स्वहस्तं तु ऋणिको यदि निह्नुते ।
पत्रस्थैः साक्षिभिर्वाच्यो लेखकस्य मतेन वा ॥ २८२ ॥
कृताकृतविवादेषु साक्षिभिः पत्रनिर्णयः ।
दूषिते पत्रके वादी तदारूढांस्तु निर्दिशेत् ॥ २८३ ॥
त्रिविधस्यापि लेख्यस्य भ्रान्तिः सञ्जायते नृणाम् ।
ऋणिसाक्षिलेखकानां हस्तोक्त्या साधयेत्ततः ॥ २८४ ॥
अथ पञ्चत्वमापन्नो लेखकः सह साक्षिभिः ।
तत्स्वहस्तादिभिस्तेषां विशुध्येत्तु न संशयः ॥ २८५ ॥
ऋणिस्वहस्तसंदेहे जीवतो वा मृतस्य वा ।
तत्स्वहस्तकृतैरन्यैः पत्रैस्तल्लेख्यनिर्णयः ॥ २८६ ॥
समुद्रेपि यदा लेख्ये मृता सर्वेपि ते स्थिताः ।
लिखितं तत्प्रमाणं तु मृतेष्वपि हि तेषु च ॥ २८७ ॥
प्रत्यक्षमनुमानेन न कदाचिद्विप्रसाध्यते ।
तस्माद्दृश्यस्य दुष्टस्य वचोभिः साक्षिणां भवेत् ॥ २८८

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281 अपरार्क p. 686, स्मृतिच॰ III p 143, वीर॰ p 197.

282 स्मृतिच॰ III p 144, परा. मा. III p. 133 (ascribes to बृहस्पति and reads साक्षिभिर्वाचा).

283 मिता॰ on या॰ II. 92 (latter half), अपरार्क p. 689 (first half), स्मृतिच॰ III p. 144, स वि p 120 (latter half only).

284 वीर॰ p 198, व्य. मा. p. 339 (ascribes to नारद and reads हस्तोक्त्ये), परा. मा p 134 (ascribes to बृहस्पति)

निर्णय स्वधनार्थं हि पत्र दूषयति स्वयम् ।
लिखित लिखितेनैव साधिम साक्षिभिर्हरेत् ॥ २८९ ॥
कूटोक्तौ साक्षिणा वान्यालेख्यस्य च पत्रकम ।
नयेच्छुद्धि न च कूट स दाप्यो दमम‌ुत्तमम् ॥ २९० ॥
आढ्यस्य निकटस्थस्य यच्छकेन न याचितम् ।
शुद्धर्णशङ्कया तत्तु लेख्य दुर्बलतामियात् ॥ २९१ ॥
लेख्य चिरतरसमातीतमदृणाश्रावित च यत् ।
न तत्सिद्धिमवाप्नोति तिष्ठत्स्वपि हि साक्षिषु । २९२॥
प्रयुक्ते शान्तलाभे तु लिखित यो न दर्शयेत् ।
नैव याचेत ऋणिक न तत्सिद्धिमवाप्नुयात् ॥ २९३ ॥
पश्चात्कारनिबद्ध यत्तद्यत्नेन विचारयेत् ।
यदि स्याद्युक्तियुक्त तु प्रमाण लिखित तदा ॥ २९४ ॥
अन्यथा दूरत कार्य पुनरेव विनिर्णयेत् ।
अतथ्य तथ्यभावेन स्थापित ज्ञानविभ्रमात् ॥
निपर्त्य तत्प्रमाण स्याद्यत्नेनापि कृत नृपे ॥ २९५ ॥
मुद्राशुद्ध क्रियाशुद्ध भुक्तिशुद्ध सचिह्नकम् ।
राज्ञ स्वहस्तसशुद्ध शुद्धिमायाति शासनम् ॥ २९६ ॥
निर्दोष प्रथित यत्तु लेख्य तत्सिद्धिमाप्नुयात् ॥ २९७ ॥
दृष्टे पत्रे स्फुटान् दोपान्नोक्तवानृणिको यदि ।

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289 अपरार्क p 689 स्मृतिच॰ III 145, परा मा III p 134 (only latter half) अपरार्क has on p 690 the latter half joined to साक्षिभ्यो लिखित श्रेयो लिखितान्न तु साक्षिण (but no author is named) while स्मृतिच॰ ascribes latter half to नारद

290 अपरार्क p 689 वीर॰ p 199 परा मा III p 134 (only first half) and p 138 (where we have whole verse and वाक्य for वाक्यात्)

291 93 परा मा III pp 134 135 अपरार्क 692 (attributes to बृहस्पति) व्य मा p 340 (has 291 292 and ascribes to बृहस्पति) and p 294 (has 291) स्मृतिच॰ III p 152 (ascribes 291 to बृहस्पति and 292 293 to कात्यायन) reads तत्सद्धिमवाप्नुयात्

294 95 स्मृतिच॰ III p 145-6

296 अपरार्क p 684 स्मृतिच॰ III p 146, स वि p 121

297 परा मा III p 136

ततो विंशतिवर्षाणि स्थितं पत्रं स्थिरं भवेत् ॥ २९८ ॥
शाकस्य संनिधावर्थो येन लेख्येन भुज्यते ।
वर्षाणि विंशति यावत्तत्पत्रं दोषवर्जितम् ॥ २९९ ॥
अथ विंशतिवर्षाणि आधिर्भुक्तः सुनिश्चितम् ।
तेन लेख्येन तत्सिध्दिर्लेख्यदोषविवर्जिता ॥ ३०० ॥
सीमाविवादे निर्णीते सीमापत्रं विधीयते ।
तस्य दोषा प्रवक्तव्या यावद्वर्षाणि विंशति ॥ ३०१ ॥
आधानसहित यत्र ऋणं लेख्ये निवेशितम् ।
मृतसाक्षि प्रमाण तु स्वल्पभोगेषु तद्विदु ॥३०२ ॥
प्राप्तं धनेन चेत्किञ्चिद्दानं चाप्यनिरूपितम् ।
विनापि मुद्रया लेख्यं प्रमाणं मृतसाक्षिकम् ॥ ३०३ ॥
यदि लब्धं भवेत्किञ्चित् प्रशस्तिर्वा कृता भवेत् ।
प्रमाणमेव लिखितं मृता यद्यपि साक्षिण ॥ ३०४ ॥

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298 व्य मा p 340 (reads कन्तपत्र), परा मा III p 136 (reads तथा दृष्ट स्फुट दोष and ज्ञातपत्र स्थित) वीर॰ p 200

299 मिता॰ on या II 24 (reads विंशतिवर्षाण्यतिक्रान्त), अपरार्क p 690, व्य मा p 340 (reads वर्षो for अर्थो) स्मृतिच॰ III p 146 (reads येन लेख्येन) and 154 (reads दश वर्षाण्यतिक्रात), परा. मा III p 136, वीर॰ p 200 and स. वि 127 (read विंशद्वर्षाण्यतिक्रान्त)

300 मिता॰ on या II 24, स्मृतिच॰ III p 146 (ascribes to स्मृत्यन्तर immedately after citing कात्यायन) अपरार्क p 691 (reads तत्सिद्ध लेख्य दोषविवर्जितम्), परा मा III p 136 (reads as अपरार्क does), स वि p 121 (ascribes to स्मृत्यन्तर after citing कात्यायन and reads like अपरार्क), वीर॰ p 200, स वि p 128

301 मिता॰ on या II 24 अपरार्क p 691, परा मा III p 136. वीर॰ p 200 स्मृतिच॰ III p 146 and स वि p 121 attribute to स्मृत्यन्तर while स वि p 128 attributes this and the preceding to कात्यायन

302 अपरार्क p 691, परा मा III p 136 (reads मृत साक्षिप्रमाण)

303 परा मा III p 137, वीर॰ p 200 (reads देय चाप निरूपितम्)

304 अपरार्क p 691, परा मा III p 137, स वि p 122 अपरार्क attributes to नारद

दर्शित प्रतिकाल यद् श्राद्धित स्मारित तथा ।
लेख्य सिध्यति सर्वत्र मृतेष्वपि च साक्षिषु ॥ ३०५ ॥
न दिव्यै साक्षिभिर्वापि हीयते लिपित क्वचित् ।
लेख्यधर्म सदा श्रेष्ठो ह्यतो नान्येन हीयते ॥ ३०६ ॥
तद्युक्तप्रतिलेख्येन तद्विशिष्टेन वा सदा ।
लेख्यक्रिया निरस्येत निरस्यान्येन न क्वचित् ॥३०७॥
दर्पणस्थ यथा बिम्बमसत्सदिव दृश्यते ।
तथा लेख्यस्य बिम्बानि कुर्वन्ति कुशला जना ॥३०८॥
द्रव्य गृहीत्वा यल्लेख्य परस्मै सप्रदीयते ।
छद्मनान्येन चारूढ सयत चान्ययदमनि ॥ ३०९ ॥
दत्ते कृतेथवा द्रव्ये कचिल्लिखितपूर्वके ।
एष एव विधिर्ज्ञेयो लेख्यशुद्धिविनिर्णये ॥ ३१० ॥
स्थावरे विक्रयाधाने लेख्य कूट करोति य ।
स सम्यग्भावित कार्यो जिह्वापाण्यड्घ्रिवर्जित ॥३११॥
मलैर्येद्वेदित दग्ध छिद्रित भीतमेव वा ।
तदन्यत्कारयेल्लेख्य स्वेदेनोल्लिखित तथा ॥ ३१२ ॥

(भुक्ति)

लिखित साक्षिणो भुक्ति प्रमाणत्रयमिष्यते ।
प्रमाणेषु स्मृता भुक्ते सल्लेख्यसमता नृणाम् ॥ ३१३ ॥

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305 स वि p 122

306 अपरार्क p 692 स्मृतिच॰ III p 151 व्य मा p 314 (reads तद्दिव्यै and लेख्ये धर्म), स वि p 123

307 अपरार्क p 692 (reads तद्युक्ते॰ and न साक्षिदापथै क्वचित्) स्मृतिच॰ III p 151 स वि p 123 (तद्युक्त प्रति॰) टोडरानन्द (reads like अपरार्क)

308 स्मृतिच॰ III p 148 व्य मा p 339 वीर॰ p 197

309–310 स्मृतिच॰ III p 152

311 परा मा III p 138 (reads असम्यग्भावित) स्मृतिच॰ III p 150

312 अपरार्क p 687 स्मृतिच॰ III p 138

313 स्मृतिच॰ III p 153 स वि p 124 (reads स्थिरा भुक्ति सल्लेख्या समता)

रथ्यानिर्गमनद्वारजलवाहादिसंशये ।
भुक्तिरेव तु गुर्वी स्यात्प्रमाणेष्विति निश्चयः ॥ ३१४ ॥
अनुमानाद् गुरुः साक्षी साक्षिभ्यो लिखितं गुरु ।
अव्याहता त्रिपुरुषी भुक्तिरेभ्यो गरीयसी ॥ ३१५ ॥
नोपभोगे बलं कार्यमाहर्त्रा तत्सुतेन वा ।
पशुस्त्रीपुरुषादीनामिति धर्मो व्यवस्थितः ॥ ३१६ ॥
भुक्तिस्तु द्विविधा प्रोक्ता सागमानागमा तथा ।
त्रिपुरुषी या स्वतन्त्रा सा चेदन्या तु सागमा ॥३१७॥
मुख्या पैतामही भुक्तिः पैतृकी चापि संमता ।
त्रिभिरेतैरविच्छिन्ना स्थिरा पश्चाद्विकी मता ॥३१८॥
सागमेन तु भुक्तेन सम्यग्भुक्तं यदा तु यत् ।
आहर्ता लभते तत्तु नापहार्यं तु तत्कचित् ॥ ३१९ ॥
प्रनष्टागमलेख्येन भोगारूढेन वादिना ।
कालः प्रमाणं दानं च कीर्तनीयानि संसदि ॥ ३२० ॥
स्मार्तकाले क्रिया भूमेः सागमा भुक्तिरिष्यते ।
अस्मार्तेनुगमाभावात् क्रमात्त्रिपुरुषागता ॥ ३२१ ॥

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314 स्मृतिच॰ III. p. 153, परा. मा. III. p 146, स. वि. p. 124 (reads रथ्यादिनगरद्वार). परा. मा. reads रथ्यानिर्गमनद्वारे जलवाहादिसंश्रये.

315 व्य. मा. p. 318.

316 मिता॰ on या. II. 24, स्मृतिच॰ III p. 155, परा. मा. III. p. 147, स. वि. p. 126.

317 स्मृतिच॰ III. p. 167 (which reads स्वतन्त्रानागमाख्या तु सागमा) परा. मा. III p 141.

318 अपरार्क p. 636, वीर॰ p. 206, कृत्यकल्पतरु.

319 व्य. मा. p. 345 and टोडरानन्द, both ascribe to विष्णु and कात्यायन; compare विष्णुधर्मसूत्र V. 181.

320 स्मृतिच॰ III. p 162, परा. मा. III. p. 140, स. वि. p. 130.

321 मिता॰ on या. II. 27, अपरार्क p. 636 (ascribes to स्मृत्यन्तर), व्य.मा. p. 346 (अस्मार्तकालेनुगमात् भावात् !), परा. मा. III. p. 142 (first half), स. वि. p. 133, स्मृतिच॰ III. p 163, वीर॰ p. 204 (ascribes to नारद).

आद्ये तु कारणं दानं मध्ये भुक्तिस्तु सागमा ।
कारणं भुक्तिरेवैका संतता या त्रिपौरुषी ॥ ३२२ ॥
आहर्ता भुक्तियुक्तोपि लेख्यदोषान्विशोधयेत् ।
तत्सुतो भुक्तिदोषांस्तु लेख्यदोषांस्तु नाप्नुयात् ॥३२३॥
येनोपात्तं हि यद्द्रव्यं सोभियुक्तस्तदुद्धरेत् ।
चिरकालोपभोगेपि भुक्तिस्तस्यैव नेष्यते ॥ ३२४ ॥
चिरन्तनमविज्ञातं भोगं लोभान्न चालयेत् ॥ ३२५ ॥
पित्रा भुक्तं तु यद्द्रव्यं भुक्त्याचारेण धर्मतः ।
तस्मिन्प्रेते न वाच्योसौ भुक्त्या प्राप्तं हि तस्य तत् ॥३२६॥
त्रिभिरेव तु या भुक्ता पुरुषैर्भूर्यथाविधि ।
लेख्याभावेपि तां तत्र चतुर्थः समवाप्नुयात् ॥३२७॥
यथा क्षीरं जनयति दधि कालाद्रसान्वितम् ।
दानहेतुस्तथा कालाद्भोगस्त्रिपुरुषागतः ॥ ३२८ ॥
भुक्तिर्बलवती शास्त्रे सन्तता या चिरन्तनी ।
विच्छिन्नापि तु सा ज्ञेया या तु पूर्वप्रसाधिता ॥३२९॥
न भोगं कल्पयेत्स्त्रीषु देवराजधनेषु च ।
बालश्रोत्रियवित्ते च मातृतः पितृतः क्रमात् ॥ ३३० ॥

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322 अपरार्क p. 636, परा. मा. III p. 146, व्य. मा. p 344 and वीर॰ p. 206 ascribe to नारद. व्य. मा reads आद्ये तु All except अपरार्क read चिरन्तनी for त्रिपौरुषी.

323 स्मृतिच॰ III, p. 164, परा मा. III. p 145

324 व्य. मा. p. 343.

325 स्मृतिच॰ III, p 168

326 टोडरानन्द.

327 व्य. मा. p. 341 and टोडरानन्द (both ascribe to विष्णु and कात्यायन). Compare विष्णुधर्मसूत्र V. 187.

328 व्य. मा. p. 350.

329 कृत्यकल्पतरु, परा. मा. III. p. 145 (ascribes it to बृहस्पति)

330 कृत्यकल्पतरु, व्य. मा. p. 351 (reads श्रोत्रियवृद्धे च प्राप्तेपि पितृत), टोडरानन्द (प्राप्ते च पितृत.), स्मृतिच॰ III. p. 168.

ब्रह्मचारी चरेत्कश्चिद्व्रतं षट्त्रिंशदाब्दिकम् ।
अर्थार्थी चान्यविषये दीर्घकालं वसेन्नरः ॥ ३३१ ॥
समावृत्तोऽव्रती कुर्यात्स्वधनान्वेषणं ततः ।
पञ्चाशदाब्दिको भोगस्तद्धनस्यापहारकः ॥ ३३२ ॥
प्रतिवेदं द्वादशाब्द कालो विद्यार्थिनां स्मृतः ।
शिल्पविद्यार्थिनां चैव ग्रहणान्तः प्रकीर्तितः ॥ ३३३ ॥
सुहृद्भिर्बन्धुभिश्चैषां यत्स्वं भुक्तमपश्यताम् ।
नृपापराधिनां चैव न तत्कालेन हीयते ॥ ३३४ ॥
सनाभिभिर्बान्धवैश्च यद्भुक्तं स्वजनैस्तथा ।
भोगात्तत्र न सिद्धिः स्याद्भोगमन्यत्र कल्पयेत् ॥३३५॥

(युक्ति.)

अर्थिनाभ्यर्थितो यस्तु विघातं न प्रयोजयेत् ।
त्रिचतुःपञ्चकृत्वो वा परस्तद्धनी भवेत् ॥ ३३६ ॥
दानं प्रज्ञापना भेद संप्रलोभक्रिया च या ।
चित्तापनयनं चैव हेतवो हि विभावकाः ॥ ३३७ ॥
एषामन्यतमो यत्र वादिना भावितो भवेत् ।
मूलक्रिया तु तत्र स्याद् भाविते वादिनिह्नवे ॥ ३३८॥

(साक्षिण)

न कालहरणं कार्यं राज्ञा साक्षिप्रभाषणे ।
महान्दोषो भवेत्कालाद्धर्मव्यावृत्तिलक्षणः ॥ ३३९ ॥

331-32 परा मा. III, 148, स्मृतिच॰ III. p 168 (ascribes to नारद).

333 334 परा. मा. III p 148, स्मृतिच॰ III p. 159 (ascribes to नारद) reads यत्सम्भुक्तम्.

335 अपरार्क p. 637, व्य. मा p. 351 (reads सनाभै and अन्येषु), वीर॰ p. 221.

336 वीर॰ p 224

337-338 कृत्यकल्पतरु (reads वादिनो and भावितेऽपि), टोडरानन्द, वीर॰ pp 224-225

339 व्य. मा. pp. 306 (reads कालग्रहणं), 328, स. वि. p. 148 (reads काले), स्मृतिच॰ III. 214, टोडरानन्द.

उपस्थितान् परीक्षेत साक्षिणो नृपतिः स्वयम् ।
साक्षिभिर्भाषितं वाक्यं सभ्यैः सह परीक्षयेत् ॥३४०॥
सम्यक्क्रियापरिज्ञाने देयः कालस्तु साक्षिणाम् ।
संदिग्धं यत्र साक्ष्यं स्यात्सद्यः स्पष्टं विवादयेत् ॥३४१॥
सभान्तः साक्षिणः सर्वानर्थिप्रत्यर्थिसंनिधौ ।
प्राड्विवाको नियुञ्जीत विधिनानेन सान्त्वयन् ॥३४२॥
यद्द्वयोरनयोर्वेत्थ कार्येऽस्मिंश्चेष्टितं मिथः ।
तद्ब्रूत सर्वं सत्येन युष्माकं ह्यत्र साक्षिता ॥ ३४३ ॥
देवब्राह्मणसांनिध्ये साक्ष्यं पृच्छेदृतं द्विजान् ।
उदङ्मुखान्प्राङ्मुखान्वा पूर्वाह्णे वै शुचिः शुचीन् ॥
आहूय साक्षिणः पृच्छेन्नियम्य शपथैर्भृशम् ।
समस्तान्विदिताचारान् विज्ञातार्थान्पृथक्पृथक् ॥३४५॥
अर्थिप्रत्यर्थिसांनिध्यादनुभूतं तु यद्भवेत् ।
तद्ग्राह्यं साक्षिणो वाक्यमन्यथा न बृहस्पतिः ॥३४६॥
प्रख्यातकुलशीलाश्च लोभमोहविवर्जिता ।
आप्ताः शुद्धा विशिष्टा ये तेषां साक्ष्यमसंशयम् ॥३४७॥

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340 वीर॰ p. 165 (first half), व्य. मा. p. 331, अपरार्क p. 675, मिता॰ on या. II 80 (latter half).

341 अपरार्क p 677 (reads सद्यः पृष्टं), स्मृतिच॰ III. p. 213, स. वि. p 148 (reads यत्साक्ष्य तु स्पष्टं सद्यो), टोडरानन्द (reads स्पृष्ट).

342 मिता. on या II. 73, वीर. p 167, अपरार्क p. 675 (no name), परा. मा. III. p. 107 (ascribes to मनु), व्य. म. ascribes this and the next two to मनु and कात्यायन.

343 वीर. p. 167, अपरार्क p. 675 (no name), परा मा. III. p. 108 (ascribes to मनु)

344 मिता. on या. II. 73, वीर. p. 167, अपरार्क p. 673 and परा मा. III p. 111 (both cite as मनु's).

345 मिता. on या. II. 73, अपरार्क p 674 (ascribes to नारद)

346 व्य. मा p. 317 (reads अन्यथा), टोडरानन्द, वीर. p. 142.

347 स्मृतिच. III. p. 174, वीर. p. 149 (reads आप्ताः शिष्टा and तेषां वाक्य॰).

विभाव्यो वादिना यादृक् सदृशैरेव भावयेत् ।
नोत्कृष्टश्चापकृष्टस्तु साक्षिभिर्भावयेत्सदा ॥ ३४८ ॥
लिङ्गिनः श्रेणिपूगाश्च वणिग्व्रातास्तथापरे ।
समूहस्थाश्च ये चान्ये वर्गास्तानब्रवीद्भृगुः ॥ ३४९ ॥
दासचारणमल्लानां हस्त्यश्वायुधजीविनाम् ।
प्रत्येकैकं समूहानां नायका वर्गिणस्तथा ॥
तेषां वादः स्ववर्गेषु वर्गिणस्तेषु साक्षिण ॥ ३५० ॥
स्त्रीणां साक्ष्यं स्त्रिय कुर्युर्द्विजानां सदृशा द्विजाः ।
शूद्राश्च सन्तः शूद्राणामन्त्यानामन्त्ययोनय ॥ ३५१ ॥
अशक्य आगमो यत्र विदेशप्रतिवासिनाम् ।
त्रैविद्यप्रहितं तत्र लेख्यसाक्ष्यं प्रवादयेत् ॥ ३५२ ॥
अभ्यन्तरस्तु निक्षेपे साक्ष्यमेकोपि याच्यते ।
अर्थिना प्रहितः साक्षी भवत्येकोपि दूतक ॥ ३५३ ॥
संस्कृतं येन यत्पण्यं तत्तेनैव विभावयेत् ।
एक एव प्रमाणं स विवादे तत्र कीर्तित ॥ ३५४ ॥
लेखकः प्राड्विवाकश्च सभ्याश्चैवानुपूर्वशः ।
नृपे पश्यति यत्कार्यं साक्षिणः समुदाहृताः ॥ ३५५ ॥

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348 वीर॰ p 149.

349-50 अपरार्क p 666, वीर॰ p 149, टोडरानन्द (reads मुनिः for भृगुः)

351 टोडरानन्द (ascribes to कात्यायन and मनु), व्य. मा. p 323 (to both मनु and कात्या.). This is मनु॰ 8 68.

352 अपरार्क p. 667 (reads विदेशे प्रतिवादिनाम्), टोडरानन्द

353 व्य. मा p. 319 (अभ्यन्तरर्णनिक्षेपे and याचित. for दूतक.), स्मृतिच॰ III p. 175, परा मा III. p. 96 (first half) reads आभ्यन्तरस्तु विशेषे and मा वदेत् for याच्यते, वीर॰ p 151 (reads याचिते for दूतक), व्यवहारतत्त्व p 214 reads एकोपि याचिते.

354 स्मृतिच॰ III, p 175 (reads संस्कृतं येन सन्यस्त), वीर p. 151, व्यवहारतत्त्व p. 214

355 व्य मा. pp. 320, 823, टोडरानन्द.

अन्ये पुनरनिर्दिष्टा साक्षिण समुदाहृता ।
ग्रामश्च प्राड्विवाकश्च राजा च व्यवहारिणाम् ॥३५६॥
कार्येष्वभ्यन्तरो यश्चार्थिना प्रहितश्च य ।
कुल्या कुलविवादेषु भवेयुस्तेपि साक्षिण ॥ ३५७ ॥
रिक्थभागविवादे तु संदेहे समुपस्थिते ।
कुल्याना वचन तत्र प्रमाण तद्विपर्यये ॥ ३५८ ॥
साक्षिणा लिखिताना तु निर्दिष्टाना च वादिना ।
तेषामेकोन्यथावादी भेदात्सर्वे न साक्षिण ॥ ३५९ ॥
अन्येन हि वृत साक्षी नैवान्यस्त विवादयेत् ।
तदभावे नियुक्तो वा बान्धवो वा विवादयेत् ॥ ३६० ॥
तद्वृत्तिजीविनो ये च तत्सेवाहितकारिण ।
तद्बन्धुसुहृदो भृत्या आप्तास्ते तु न साक्षिण ॥३६१॥
मातृष्वसृसुताश्चैव सोदर्यासुतमातुला ।
एते सनाभयस्तूक्ता साक्ष्य तेषु न योजयेत् ॥ ३६२ ॥
कुल्या सबन्धिनश्चैव विवाह्यो भगिनीपति ।
पिता बन्धु पितृव्यश्च श्वशुरो गुरवस्तथा ॥ ३६३ ॥
नगरग्रामदेशेषु नियुक्ता ये पदेषु च ।
वल्लभाश्च न पृच्छेयुर्भक्तास्ते राजपूरुषा ॥ ३६४ ॥

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356 व्य मा p 320 and टाडरानन्द (both ascribe it to नारद and कात्यायन), व्यवहारतत्त्व p 219 (ascribes to मनु and कात्यायन)

357 व्य मा p 320 (ascribe to नारद and कात्यायन), व्यवहारतत्त्व p 219 (ascribes to मनु and कात्यायन)

358 व्य मा p 322

359 अपरार्क p 670 स्मृतिच॰ III p 189 व्य मा p 325, परा मा III p 116, व्यवहारतत्त्व p 215

360 अपरार्क p 670, व्य मा p. 327 स्मृतिच॰ III p 189

361 अपरार्क p 669 स्मृतिच॰ III p 177, व्य मा p 324, वीर॰ p 160

362–363 अपरार्क pp 669–670 व्य मा p 324 makes one verse by omitting सोदर्यासुत सबन्धिनश्चैव स्मृतिच॰ III p. 180 परा मा III 99 (omits the line कुल्या पति) वीर॰ p 160 (adds after मातृष्वसृ सुताश्चैव the words पितृष्वसृसुतास्तथा । मातुलस्य सुताश्चैव)

364 स्मृतिच॰ III p 180 अपरार्क p 670, परा मा III p 100

ऋणादिषु परीक्षेत साक्षिणः स्थिरकर्मसु ।
साहसात्ययिके चैव परीक्षा कुत्रचित्स्मृता ॥ ३६५ ॥
व्याघातेषु नृपाज्ञायाः संग्रहे साहसेषु च ।
स्तेयपारुष्ययोश्चैव न परीक्षेत साक्षिणः ॥ ३६६ ॥
अन्तर्वेश्मनि रात्रौ च बहिर्ग्रामाच्च यद्भवेत् ।
एतेष्वेवाभियोगश्चेन्न परीक्षेत साक्षिणः ॥ ३६७ ॥
न साक्ष्यं साक्षिभिर्वाच्यमपृष्टैरर्थिना सदा ।
न साक्ष्यं तेषु विचेत स्वयमात्मनि योजयेत् ॥३६८॥
लेख्यारूढश्चोत्तरश्च साक्षी मार्गद्वयान्वितः ॥ ३६९ ॥
अथ स्वहस्तेनारूढस्तिष्ठंश्चैकः स एव तु ।
न चेत्प्रत्यभिजानीयात् तत्स्वहस्तैः प्रसाधयेत् ॥३७०॥
अर्थिना स्वयमानीतो यो लेख्ये संनिवेश्यते ।
स साक्षी लिखितो नाम स्मारितः पत्रकादृते ॥३७१॥
यस्तु कार्यप्रसिद्ध्यर्थं दृष्ट्वा कार्यं पुनः पुनः ।
स्मार्यते ह्यर्थिना साक्षी स स्मारित इहोच्यते ॥३७२॥
प्रयोजनार्थमानीतः प्रसङ्गादागतश्च यः ।
द्वौ साक्षिणौ त्वलिखितौ पूर्वपक्षस्य साधकौ ॥३७३॥
अर्थिना स्वार्थसिद्ध्यर्थं प्रत्यर्थिवचनं स्फुटम् ।
यः श्रावितः स्थितो गूढो गूढसाक्षी स उच्यते ३७४
साक्षिणामपि यः साक्ष्यमुपर्युपरि भाषते ।
श्रवणाच्छ्रावणाद्वापि स साक्ष्युत्तरसंज्ञितः ॥ ३७५ ॥

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365 स्मृतिच॰ III p. 183, व्य. मा. p. 327 (reads परीक्षा न कचिन्मता), वीर॰ p. 162, व्यवहारतत्त्व p. 214.

366 अपरार्क p. 670, स्मृतिच॰ p 183, व्य. मा. p. 328.

267 अपरार्क p. 671, व्य. मा. p. 328.

368 व्य. मा. p. 326.

369 स्मृतिच॰ III. p. 184.

370 वीर॰ p. 147.

371—372 मिता॰ on या. II. 68, वीर॰ p. 143.

373—375 मिता॰ on या. II. 68, वीर॰ pp. 143–144., द वि. p. 142.

उल्लाप्यं यस्य विश्रम्भात्कार्यं वा विनिवेदितम् ।
गूढचारी स विज्ञेय कार्यमध्यगतस्तथा ॥ ३७६ ॥
अर्थी यत्र विपन्नः स्यात्तत्र साक्षी मृतान्तर. ।
प्रत्यर्थी च मृतो यत्र तत्राप्येवं प्रकल्प्यते ॥ ३७७ ॥

(साक्षिदोषोद्भावनम्)

लेख्यदोषास्तु ये केचित्साक्षिणां चैव ये स्मृता. ।
वादकाले तु वक्तव्या' पश्चादुक्तान्न दूषयेत् ॥ ३७८ ॥
उक्तेऽर्थे साक्षिणो यस्तु दूषयेत्प्रागदूषितान् ।
न च तत्कारणं ब्रूयात् प्राप्नुयात्पूर्वसाहसम् ॥ ३७९ ॥
नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत् ।
मिथ्याभियोगे दण्ड्य स्यात्साध्यार्थाच्चापि हीयते ॥ ३८० ॥
प्रत्यर्थिनार्थिना वापि साक्षिदूषणसाधने ।
प्रस्तुतार्थोपयोगित्वाद् व्यवहारान्तर न च ॥ ३८१ ॥
साक्षिदोषा. प्रवक्तव्या. संसदि प्रतिवादिना ।
पत्रे विलिख्य तान्सर्वान् वाच्यः प्रत्युत्तरं तत ॥३८२
प्रतिपन्नौ तु साक्षित्वमर्हन्ति न कदाचन ।
अतोऽन्यथा भावनीया क्रियया प्रतिवादिना ॥ ३८३॥
अभावयन्धनं दाप्य प्रत्यर्थी साक्षिण स्फुटम् ।
भाविता साक्षिण सर्वे साक्षिधर्मनिराकृता ॥३८४॥

376-377 टोडरानन्द

378 स्मृतिच० III. p 192, टोडरानन्द, स वि p 143 अपरार्क p 672 and व्य म. p 39 and वीर० p 164 ascribe it to बृहस्पति टोडरानन्द reads पश्चादुक्ता न

379 अपरार्क p 673, व्य.मा p 327, स्मृतिच० III p 192, स वि p 144, टोडरानन्द (reads न तत्त कारण), व्य म p 39, वीर० p 164

380 अपरार्क p. 671, स्मृतिच० III p 192, स वि. p 144, वीर० p 164

381 परा मा III p 106 वीर० p 163 स वि p 145 (reads न तु साक्ष्य विरोध स्यात् व्यवहारान्तर तथा)

382-384 परा मा III p 106 मिता० on या II 72 has 384 (reads दूषण साक्षिणा स्फुटम्) व्य म p 38 attribute these to व्यास स वि p. 144 has 384 (and attributes it to कात्या), वीर० p 165 (attributes 384 to व्यास)

आकारेङ्गितचेष्टाभिस्तस्य भावं विभावयेत्।
प्रतिवादी भवेद्धीनः सोऽनुमानेन लक्ष्यते ॥ ३८५ ॥
कम्पः स्वेदोथ वैकल्यमोष्ठशोषाभिमर्शने।
भूलेखनं स्थानहानिस्तिर्यगूर्ध्वनिरीक्षणम्।
स्वरभेदश्च दुष्टस्य चिह्नान्याहुर्मनीषिणः ॥ ३८६ ॥
सभान्तःस्थैस्तु वक्तव्यं साक्ष्यं नान्यत्र साक्षिभिः।
सर्वसाक्ष्येष्वयं धर्मो ह्यन्यत्र स्थावरेषु तु ॥ ३८७ ॥
अर्थिप्रत्यर्थिसांनिध्ये साध्यार्थस्य च संनिधौ।
प्रत्यक्षं देशयेत्साक्ष्यं परोक्षं न कथंचन ॥ ३८८ ॥
अर्थस्योपरि वक्तव्यं तयोरपि विना क्वचित्।
चतुष्पदेष्वयं धर्मो द्विपदस्थावरेषु च ॥ ३८९ ॥
तौल्यगणिमभेयानामभावेपि विवादयेत्।
क्रियाकारेषु सर्वेषु साक्षित्वं न ततोऽन्यथा ॥ ३९० ॥
वधे चेत्प्राणिनां साक्ष्यं वादयेच्छिवसंनिधौ।
तदभावे तु चिह्नस्य नान्यथैव प्रवादयेत् ॥ ३९१ ॥
स्वभावोक्तं वचस्तेषां ग्राह्यं यद्दोषवर्जितम्।
उक्ते तु साक्षिणो राज्ञा न प्रष्टव्याः पुनः पुनः ॥३९२॥
स्वभावेनैव यद्ब्रूयुस्तद् ग्राह्यं व्यावहारिकम्।
अतो यदन्यद्विब्रूयुर्धर्मार्थं तदपार्थकम् ॥ ३९३ ॥

385-86 व्य. मा p. 312-13, वीर० p. 96.

387 स्मृतिच॰ III. p 206, अपरार्क p 675, परा मा. III. p 112 (reads निवि· स्थावरेषु च).

388 टोडरानन्द, व्य म p 41.

389 स्मृतिच॰ III. p 206, परा. मा. III. p. 113, व्य. म. p 41.

390 टोडरानन्द, व्य. म p 41.

391 स्मृतिच॰ III. p. 206, परा. मा III p 113, व्य म. p. 41

392 मिता. on या. II. 79 (no name), अपरार्क p. 675, स्मृतिच॰ III. p. 208.

393 स्मृतिच॰ III. p 209, परा मा. III. p. 113 (ascribes to मनु). This is मनु 8. 78.

समवेतैस्तु यद्दृष्टं वक्तव्यं तत्तथैव तु ।
विभिन्नैकैककार्यं यद्वक्तव्य तत्पृथक् पृथक् ॥ ३९४ ॥
भिन्नकाले तु यत्कार्यं विज्ञातं तत्र साक्षिभि ।
एकैकं वादयेत्तत्र भिन्नकालं तु तद्गुरु ॥ ३९५ ॥
ऋणादिषु विवादेषु स्थिरप्रायेषु निश्चितम् ।
ऊने वाप्यधिके वार्थे प्रोक्ते साध्यं न सिध्यति ॥३९६॥
साध्यार्थांशेपि गदिते साक्षिभि सकल भवेत् ।
स्त्रीसङ्गे साहसे चौर्ये यत्साध्य परिकल्पितम् ॥३९७॥
ऊनाधिक तु यत्र स्यात्तत्साक्ष्यं तत्र वर्जयेत् ।
साक्षी तत्र न वृषध्य स्यादब्रुवन्दण्डमर्हति ॥ ३९८ ॥
देश कालं धनं संख्यां रूपं जात्याकृती वय ।
विसंवदेद्यत्र साक्ष्ये तदनुक्त विदुर्बुधा ॥ ३९९ ॥
निर्दिष्टेष्वर्थजातेषु साक्षी चेत्साक्ष्य आगते ।
न ब्रूयादक्षरसम न तन्निगदित भवेत् ॥ ४०० ॥
ऊनमभ्यधिकं वार्थं विब्रूयुर्यत्र साक्षिण ।
तदप्ययुक्तं विज्ञेयमेष साक्षिविनिश्चय ॥४०१॥

(साक्षिणां दोषा दण्डाश्च)

अपृष्ट सर्ववचने पृष्टस्याकथने तथा ।
साक्षिण संनिरोद्धव्या गर्ह्या दण्ड्याश्च धर्मत ॥४०२॥

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394 395 व्य मा p 329 (reads विभिन्ने चैव यत्कार्ये), अपरार्क p 675 परा मा III p 113 attributes to वसिष्ठ and reads विभिन्नैरेव तत्कार्यं and विभिन्नैरेव प्रकीर्तितं for भिन्नकाले तु &c व्य म p 42 and स वि p 208 and वीर p 168 also ascribe to वसिष्ठ and read as परा म does

396-397 मिता on या II 20, अपरार्क p 678, स्मृतिच० III p 200 व्य मा p 312 (has 396 only)

398 399 स्मृतिच० III p 210, अपरार्क p 678, व्य मा p 333 (has 398)

400 401 स वि p 147 परा मा III p 114 ascribes the two to बृहस्पति and व्य मा p 33 ascribes to नारद

402 403 स्मृतिच० III pp 212 213, परा मा III p 116 ascribes 402 to प्रजापति

तदर्धार्धस्य नाशे तु लौकिकाश्च क्रियाः स्मृताः ।
एवं विचारयन्राजा धर्मार्थाभ्यां न हीयते ॥ ४२१॥

(दिव्यानामर्थप्रसर्थिजातिशिल्पानुसारिणी व्यवस्था)

राजन्येऽग्निं घटं विप्रे वैश्ये तोयं नियोजयेत् ।
सर्वेषु सर्वदिव्यं वा विषं वर्ज्यं द्विजोत्तमे ॥४२२॥
गोरक्षकान्वाणिजकांस्तथा कारुकुशीलवान् ।
प्रेष्यान्वार्धुषिकांश्चैव ग्राहयेच्छूद्रवद् द्विजान् ॥४२३॥
न लोहशिल्पिनामग्निं सलिलं नाम्बुसेविनाम् ।
मन्त्रयोगविदां चैव विषं दद्याच्च न क्वचित् ॥
तण्डुलैर्न नियुञ्जीत व्रतिनं मुखरोगिणम् ॥४२४॥
कुष्ठिनां वर्जयेदग्निं सलिलं श्वासकासिनाम् ।
पित्तश्लेष्मवतां नित्यं विषं तु परिवर्जयेत् ॥४२५॥
मद्यपस्त्रीव्यसनिनां कितवानां तथैव च ।
कोशः प्राज्ञैर्न दातव्यो ये च नास्तिकवृत्तयः ॥४२६॥
मातापितृद्विजगुरुबालस्त्रीराजघातिनाम् ।
महापातकयुक्तानां नास्तिकानां विशेषतः ॥ ४२७॥
लिङ्गिनां प्रशठानां तु मन्त्रयोगक्रियाविदाम् ।
वर्णसंकरजातानां पापाभ्यासप्रवर्तिनाम् ॥ ४२८॥
एतेष्वेवाभियोगेषु निन्द्येष्वेव च यत्नतः ।
दिव्यं प्रकल्पयेन्नैव राजा धर्मपरायणः ॥ ४२९ ॥

त्रिभागहीने तु शतार्धे तु तुला स्मृता ॥ कोशदानं तदर्धे वा दशपञ्चकसप्तसु । तदर्धे तण्डुला देयास्तदर्धे तप्तमाषकम् ॥ and ascribes 418 419 to वृद्धमनु)

422-423 स्मृतिच॰ III p 239 (has the latter half of 422), अपरार्क p 698 टोडरानन्द वीर॰ pp 235, 237, स वि p 180 (verse 423 only)

424 अपरार्क p 699 (reads चैव नाभिदिव्यं विधीयते), स्मृतिच॰ III p 240, परा मा III p 160 (reads व्रतिनां मुखरोगिणाम्), स वि p 173 (व्रतिन), वीर॰ p 236, व्य म p 48

425 426 स वि p 173, मिता॰ on या II 98 has 425, but names no author, व्य म. p. 49 has verse 426 but ascribes it to पितामह, वीर॰ p 237 ascribes both to पितामह

427-430 स्मृतिच॰ III p 241 परा मा III pp 160 161, वीर॰ p 238 टोडरानन्द परा मा reads प्रशमानां and टोडरानन्द and वीर॰ read

एतैरेव नियुक्ताना साधूनां दिव्यमर्हति ।
नेच्छन्ति साधवो यत्र तत्र शोध्या. स्वकैर्नरै. ॥४३०॥
महापातकयुक्तेषु नास्तिकेषु विशेषत ।
न देय तेषु दिव्य तु पापाभ्यासरतेषु च ॥ ४३१॥
एषु वादेषु दिव्यानि प्रतिषिद्धानि यत्नत ।
कारयेत्सज्जनैस्तानि नाभिशस्तं त्यजेन्मनुः ॥४३२॥
अस्पृश्याधमदासानां म्लेच्छानां पापकारिणाम् ।
प्रातिलोम्यप्रसूतानां निश्चयो न तु राजनि ॥
तत्प्रसिद्धानि दिव्यानि सशये तेषु निर्दिशेत् ॥ ४३३ ॥

(दिव्यदेश)

इन्द्रस्थानेभिशस्ताना महापातकिना नृणाम् ।
नृपद्रोहे प्रवृत्ताना राजद्वारे प्रयोजयेत् ॥४३४॥
प्रातिलोम्यप्रसूताना दिव्य देय चतुष्पथे ।
अतोन्येषु सभामध्ये दिव्य देय विदुर्बुधा ॥४३५॥
कालदेशविरोधे तु यथायुक्त प्रकल्पयेत् ।
अन्येन हारयेद्दिव्य विधिरेष विपर्यये ॥ ४३६ ॥
अदेशकालदत्तानि बहिर्वासकृतानि च ।
व्यभिचार सदार्थेषु कुर्वन्तीह न सशय ॥४३७॥

प्रमद्वानां for प्रशठानां, परा मा reads न सन्ति साधव .

431 432 टोडरानन्द, वीर० p 238, स्मृतिच० III 242 (has 432 only) अपरार्क p 696 (ascribes 432 to भृगु)

433 मिता० on या. II 99 स्मृतिच० III 242 परा मा III. p 161 (reads धनदारापहारााणा म्लेच्छाना) वीर० p 238 स्म म p 49 (reads समये for सशये)

434-435 मिता on या II 99, स्मृतिच० p 244, परा मा III p 163 (reads दण्डस्थाने for इन्द्रस्थाने) टोडरानन्द, स वि p 183, वीर० p 241

436 टोडरानन्द, वीर० p 238

437 439 अपरार्क p 697, परा मा III p 163 and वीर० p 241 have

वाक्पारुष्ये छले वादे दाप्याः स्युस्त्रिंशतं दमम् ।
ऋणादिवादेषु धनं ते स्युर्दाप्या ऋणं तथा ॥४०३॥
यः साक्षी नैव निर्दिष्टो नाहूतो नापि दर्शितः ।
ब्रूयान्मिथ्येति तथ्यं वा दण्ड्यः सोपि नराधमः॥४०४॥
साक्षी साक्ष्यं न चेद्ब्रूयात्समदण्डं वहेद्दणम् ।
अतोन्येषु विवादेषु त्रिशतं दण्डमर्हति ॥ ४०५ ॥
उक्त्वान्यथा ब्रुवाणाश्च दण्ड्याः स्युर्वाक्छलान्विताः ॥४०६॥
येन कार्यस्य लोभेन निर्दिष्टाः कूटसाक्षिणः ।
गृहीत्वा तस्य सर्वस्वं कुर्यान्निर्विषयं ततः ॥४०७॥
यत्र वै भावितं कार्यं साक्षिभिर्वादिना भवेत् ।
प्रतिवादी यदा तत्र भावयेत्कार्यमन्यथा ॥
बहुभिश्च कुलीनैर्वा पूर्वाः स्युः कूटसाक्षिणः ॥४०८॥
यदा शुद्धा क्रिया न्यायात्तदा तद्वाक्यशोधनम् ।
शुद्धाच्च वाक्याद्यः शुद्धः स शुद्धोर्थ इति स्थितिः ॥४०९॥
सप्ताहात्तु प्रतीयेत यत्र साक्ष्यनृतं वदेत् ।
रोगोग्निर्ज्ञातिमरणं द्विसप्ताहात्त्रिसप्त वा ।
षट्चत्वारिंशके वापि द्रव्यजात्यादिभेदतः ॥४१०॥

(दिव्यानि तेषां च विवादपदविषयिणी व्यवस्था)

न कश्चिदभियोक्तारं दिव्येषु विनियोजयेत् ।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः ॥४११॥

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404 व्य. मा p 326, टोडरानन्द, व्यवहारतत्त्व p 216, स्मृतिच० III, 212 ascribes to वसिष्ठ.

405 अपरार्क p. 677, परा मा III. p 115, स्मृतिच० III. 213, टोडरानन्द.

406 मिता० on या. II 82, स्मृतिच० III 214, वीर० p. 184.

407 अपरार्क p 672, स्मृतिच० III. p 217.

408 अपरार्क p. 679, व्य मा p 335 (read साक्षिभिः पूर्ववादिना and अनुक्तास्तु कुलीनैर्वा), स्मृतिच० III. p. 218, वीर० p 179

409 मिता० on या II 80, अपरार्क 676, व्य. मा. p 336 (which reads क्रिया न स्यात् and last line as शुद्धताया तु वाक्यार्थः शुद्धः शुद्धोन्यथा न तु), वीर० p 174

410 स. वि. p. 140.

411 अपरार्क p 695, स्मृतिच० III p 224, परा. मा. III. p. 152, स. वि. p. 167, वीर० p 228

पार्थिवे शङ्कितानां तु तुलादीनि नियोजयेत्।
आत्मशुद्धिविधाने च न शिरस्तत्र कल्पयेत् ॥४१२॥
लोकापवाददुष्टानां शङ्कितानां च दस्युभिः।
तुलादीनि नियोज्यानि न शिरस्तत्र वै भृगु ॥४१३॥
न शङ्कासु शिरः कोशे कल्पयेत्तु कदाचन।
अशिरांसि च दिव्यानि राजभृत्येषु दापयेत् ॥ ४१४॥
शङ्काविश्वाससंधाने विभागे रिक्थिनां सदा।
क्रियासमूहकर्तृत्वे कोशमेव प्रदापयेत् ॥ ४१५॥
दत्तस्यापह्नवो यत्र प्रमाणं तत्र कल्पयेत्।
स्तेयसाहसयोर्दिव्यं स्वल्पेप्यर्थे प्रदापयेत् ॥ ४१६॥
सर्वद्रव्यप्रमाणं तु ज्ञात्वा हेम प्रकल्पयेत्।
हेमप्रमाणयुक्तं तु तदा दिव्यं नियोजयेत् ॥ ४१७॥
ज्ञात्वा संख्यां सुवर्णानां शतनाशे विषं स्मृतम्।
अशीतेस्तु विनाशे वै दद्याच्चैव हुताशनम् ॥ ४१८॥
षष्ट्या नाशे जलं देयं चत्वारिंशति वै घटम्।
विंशद्दशविनाशे वै कोशपानं विधीयते ॥ ४१९॥
पञ्चाधिकस्य वा नाशे तदर्धार्धस्य तन्दुलाः।
तदर्धार्धस्य नाशे तु स्पृशेत्पुत्रादिमस्तकम् ॥ ४२०॥

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412 स्मृतिच॰ III p 225 परा मा III p 153 (reads निर्दिष्टानां च दस्युभिः। शङ्काशुद्धिपराणां न दिव्यं देयं शिरो विना) वीर॰ p 229 (which reads mostly like परा मा)

413 अपरार्क p 696 स्मृतिच॰ III p 226 परा मा III p 153

414 अपरार्क p 696 (first half) स्मृतिच॰ III p 226 परा मा III p 153

415 स्मृतिच॰ III p 226 परा मा III p 154, वीर॰ p 229 स वि p 168 अपरार्के p 695 (no name)

416 417 मिता॰ on या II 99 अपरार्के p 700 स्मृतिच॰ III p 232 (omits the half स्तेय &c) टाइरनद स च pp 178 179, वीर॰ p 231 स्मृतिच॰ reads सर्वं द्रव्य॰

418 421 मिता on या II 99 स्मृतिच॰ p 233 and अपरार्के p 700 (omits एव विचार्यत हीयते) परा मा III p 155 (omits एव हीयते) वीर॰ p 231 स वि pp 174 and 178 (p 178 presents two other verses on same subject ज्ञात विष तु पादोने दत्तभुक्तचतुर्थके। अप

साधयेत्तत्पुनः साध्यं व्याघाते साधनस्य हि ।
दत्तान्यपि यथोक्तानि राजा दिव्यानि वर्जयेत् ॥
मूर्खैर्लुब्धैश्च दुष्टैश्च पुनर्देयानि तानि वै ॥४३८॥
तस्माद्यथोक्तविधिना दिव्यं देयं विशारदैः ।
अयथोक्तप्रयुक्तं तु न शक्तं तस्य साधने ॥४३९॥
शिक्यच्छेदे तुलाभङ्गे तथा चापि गुणस्य वा ।
शुद्धेस्तु संशये चैव परीक्षेत पुनर्नरम् ॥४४०॥

(अग्निदिव्यविधिः)

प्रस्खलत्यभियुक्तश्चेत्स्थानादन्यत्र दह्यते ।
न दग्धं तु विदुर्देवास्तस्य भूयोपि दापयेत् ॥४४१॥

(उदकदिव्यविधिः)

शरांस्त्वनायसैरग्रैः प्रकुर्वीत विशुद्धये ।
वेणुकाण्डमयांश्चैव क्षेप्ता च सुदृढं क्षिपेत् ॥४४२॥
क्षिप्ते तु मज्जनं कार्यं गमनं समकालिकम् ।
गमने त्वागमः कार्यः पुमानन्यो जले विशेत् ॥४४३॥
शिरोमात्रं तु दृश्येत न कर्णौ नापि नासिका ।
अप्सु प्रवेशने यस्य शुद्धं तमपि निर्दिशेत् ॥४४४॥
निमज्ज्योत्प्लवते यस्तु दृष्टश्चेत्प्राणिभिर्नरः ।
पुनस्तत्र निमज्जेत्स देशचिह्नविभाविते ॥४४५॥

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only verse 437 which they ascribe to नारद; स्मृतिच० p. 244 has 437; टोडरानन्द has verse 439 (which ascribes it to बृहस्पति and कात्यायन).

440 अपरार्क p 704, स्मृतिच० III. p. 259, व्य. म. p. 61, वीर० p. 254.

441 अपरार्क p. 709, मिता० on या II. 107 (which reads प्रस्खलन्नभिशास्तश्चेत्), परा. मा. III. p 181 (प्रज्वालेनाभिशस्तश्चेत्), स्मृतिच० III. p. 271, वीर० p. 267, स. वि. p 199.

442 अपरार्क p. 709, मिता० on या. II. 109 (no name) reads शरांश्चानायसाग्रांस्तु), टोडरानन्द, व्य. म. p 77 परा मा. III. p. 183 (no name), वीर० p. 268, स. वि p 200.

443 अपरार्क p. 710, वीर० p 272 (first half).

444-445 अपरार्क 711, टोडरानन्द (reads निमज्जेत अङ्गचिह्नविभाविते), वीर० p 273 (has only 444), परा. मा III. p. 186 (has both and reads निमज्जेत्तु स सचिह्नविभाविते), स. वि. p. 203 (has 444 without name).

(विषदिव्यविधि)

अजाशृङ्गनिभं श्यामं सुपीनं शृङ्गसम्भवम् ।
भङ्गे च शृङ्गवेराभं ख्यातं तच्छृङ्गिणा विषम् ॥४४६॥
रक्तं तदक्षितं कुर्यात्कठिनं चैव तत्क्षणात् ।
अनेन विधिना ज्ञेयं दिव्यं दिव्यविशारदैः ॥४४७॥
वत्सनाभनिभं पीतं वर्णज्ञानेन निश्चयः ।
शुक्तिशङ्खाकृतिर्भङ्गे विद्यात्तद्वत्सनाभकम् ॥४४८॥
मधुक्षीरसमायुक्तं स्वच्छं कुर्वीत तत्क्षणात्
वाह्यमेव समाश्रयात लक्षणं धर्मसाधकं ॥४४९॥
पूर्वाह्णे शीतले देशे विषं दद्यात्तु देहिनाम्
घृतेन योजितं श्लक्ष्णं पिष्टं त्रिंशद्गुणेन तु ॥४५०॥
विषस्य पलषड्भागाद्भागो विंशतिमस्तु यः ।
तमष्टभागहीनं तु शोध्ये देयं घृताप्लुतम् ॥४५१॥

(कोशदिव्यविधि)

स्वल्पेऽपराधे देवानां स्नापयित्वायुधोदकम् ।
पाय्यो विकारे चाशुद्धो नियम्यः शुचिरन्यथा ॥४५२॥

(तण्डुलविधि)

देवतास्नानपानीयदिव्ये तण्डुलभक्षणे ।
शुद्धनिष्ठीवनाच्छुद्धो नियम्योऽशुचिरन्यथा ॥४५३॥
अवष्टम्भाभियुक्तस्य विशुद्धस्यापि कोशतः ।
सदण्डमभियोगं च दापयदभियोक्तकम् ॥
दिव्येन शुद्धं पुरुषं सत्कुर्याद्धार्मिको नृपः ॥४५४॥

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446 448 अपरार्क p 712 टोडरानन्द (reads सुपीत) वीर० p 274 (has all three)
449 अपरार्क p 712 टोडरानन्द वीर० p 274
450 मिता० on या II 111 अपरार्क p 712 परा मा III p 188 स नि p 206 and वीर० p 275 (both read त्रिंशद्गुणान्वितम्)
451 अपरार्क p 713 मिता० on या II 111 परा मा III p 188 and वीर० p 274 ascribe it to नारद It is नारद (ऋणादान verse 323)
452 अपरार्क p 714 टोडरानन्द वीर० p 279 (reads पाययित्वायुधोदकम्)
453 टोडरानन्द and व्य म p 83 वीर० pp 282 283
454 टोडरानन्द

शोणितं दृश्यते यत्र हनुबालं च सीदति ।
गात्रं च कम्पते यस्य तमशुद्धं विनिर्दिशेत् ॥४५५॥
अथ दैवविसंवादात्त्रिसप्ताहात्तु दापयेत् ।
अभियुक्तं तु यत्नेन तमर्थं दण्डमेव च ॥४५६॥
तस्यैकस्य न सर्वस्य जनस्य यदि तद्भवेत् ।
रोगोऽग्निर्ज्ञातिमरणमृणं दाप्यो दमं च सः ॥४५७॥
क्षयातिसारविस्फोटास्तात्वस्थिपरिपीडनम् ।
नेत्ररुग्गलरोगश्च तथोन्मादः प्रजायते ।
शिरोरुग्भुजभङ्गश्च दैविका व्याधयो नृणाम् ॥४५८॥
शतार्धं दापयेच्छुद्धमशुद्धो दण्डभाग्भवेत् ॥४५९॥
विषे तोये हुताशे च तुलाकोशे च तण्डुले ।
तप्तमाषकदिव्ये च क्रमाद्दण्डं प्रकल्पयेत् ॥४६०॥
सहस्रं षट्शतं चैव तथा पञ्च शतानि च ।
चतुस्त्रिद्व्येकमेवं च हीनं हीनेषु कल्पयेत् ॥४६१॥

(शपथविधिः)

यत्रोपदिश्यते कर्म कर्तुरङ्गं न तूच्यते ।
दक्षिणस्तत्र विज्ञेयः कर्मणां पारगः करः ॥४६२॥
आचतुर्दशकादह्नो यस्य नो राजदैविकम् ।
व्यसनं जायते घोरं स ज्ञेयः शपथे शुचिः ॥४६३॥

455 टोडरानन्द (ascribes to both बृहस्पति and कात्यायन); अपरार्क p. 715 and व्य. म. p. 83 ascribe to पितामह. It is नारद (ऋणादान 342)

456 अपरार्क p. 715, स्मृतिच॰ III. p. 273 (reads दैवविसंवादः and. अभियुक्तं प्रयत्नेन), व्य. म. p. 88.

457 व्य. म. p. 88, व्यवहारतत्त्व p. 229.

558 स्मृतिच॰ p. 273, व्य. म. p. 88 (reads ज्वरातीसारविस्फोटगूढास्थि॰), व्यवहारतत्त्व p. 229 (reads ज्वराती॰ as व्य. म. does).

459 मिता. on या. II. 113, स्मृतिच॰ III. p. 288, परा. मा. III. p. 204 (reads न दण्ड दापयेच्छुद्धं न शुद्धो), टोडरानन्द ascribes to मनु and कात्यायन.

460–461 मिता. on या. II. 113, स्मृतिच॰ III. p. 288, परा॰ मा॰ III. p. 204, टोडरानन्द (ascribes to मनु and कात्यायन).

462 वीर॰ p. 287.

(उन्मत्तास्वतन्त्रादिकृतानां विचार)

उन्मत्तेनैव मत्तेन तथा भावान्तरेण वा ।
यद्दत्तं यत्कृतं वाथ प्रमाणं नैव तद्भवेत् ॥ ४६४ ॥
अस्वतन्त्रकृतं कार्यं तस्य स्वामी निवर्तयेत् ।
न भर्त्रा विवदेतान्यो भीतोन्मत्तकृतादृते ॥ ४६५ ॥
पिताऽस्वतन्त्रः पितृमान् भ्राता भ्रातृव्य एव वा ।
कनिष्ठो वाविभक्तस्वो दासः कर्मकरस्तथा ॥ ४६६ ॥
न क्षेत्रगृहदासानां दानाधमनविक्रयाः ।
अस्वतन्त्रकृताः सिद्धिं प्राप्नुयुर्नानुवर्णिताः ॥४६७॥
प्रमाणं सर्व एवैते पण्यानां क्रयविक्रये ।
यदि संव्यवहारं ते कुर्वन्तोप्यनुमोदिताः ॥ ४६८ ॥
क्षेत्रादीनां तथैव स्युर्भ्राता भ्रातृसुतः सुतः ।
निसृष्टाः कृत्यकरणे गुरुणा यदि गच्छता ॥ ४६९ ॥
निसृष्टार्थस्तु यो यस्मिन् तस्मिन्नर्थे प्रभुस्तु सः ।
तद्भर्ता तत्कृतं कार्यं नान्यथा कर्तुमर्हति ॥ ४७० ॥
सुतस्य सुतदाराणां वशित्वं त्वनुशासने ।
विक्रये चैव दाने च वशित्वं न सुते पितुः ॥४७१॥

(निर्णयकृत्यम्)

शुद्धिस्तु शास्त्रतस्त्वक्षैश्चिकित्सा समुदाहृता ।
प्रायश्चित्तं च दण्डं च ताभ्यां सा द्विविधा स्मृता ॥४७२॥

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463 व्य म p 88 (reads शपथे) वीर० p 287, व्यवहारतत्त्व p 229

464 स्मृतिच० III p 305, परा मा III p 216 (reads वाचान्तरेण for भावान्तरेण)

465 स्मृतिच० III p 300, स वि pp 501–502 (reads न वार्तां दिव देतान्यो ?)

466 शेखरानन्द वीर० p 128

467–471 स्मृतिच० III pp 307 309 परा मा III pp 217–219 (has all five except 470) शंकर नन्द (reads नानुमोदिताः for नानुवर्णिताः in 467) वीर० pp. 126 128

472 स्मृतिच० III p 300, स वि p 502

अनेकार्थाभियोगेपि यावत्संसाधयेद्धनी ।
साक्षिभिस्तावदेवासौ लभते साधितं धनम् ॥४७३॥
सर्वापलापं यः कृत्वा मिथ्याल्पमपि संवदेत् ।
सर्वमेव तु दाप्यः स्यादभियुक्तो बृहस्पतिः ॥ ४७४ ॥
पत्र धर्मासनस्थेन सभ्येनैव धिया दिना ।
कार्याणां निर्णयो दृश्यो ब्राह्मणैः सह नान्यथा ॥४७५॥
व्यवहारान् स्वयं दृष्ट्वा श्रुत्वा वा प्राड्विवाकतः ।
जयपत्रं ततो दद्यात् परिज्ञानाय पार्थिवः ॥ ४७६ ॥

(दण्डविधि)

राज्ञा तु स्वामिने विप्रः सान्त्वेनैव प्रदापयेत् ।
देशाचारेण चान्यांस्तु दुष्टान् संपीड्य दापयेत् ॥४७७॥
रिक्थिनं सुहृदं वापि छलेनैव प्रदापयेत् ।
वणिजः कर्षकांश्चापि शिल्पिनश्चाब्रवीद्भृगुः ॥४७८॥
धनदानासहं बुद्ध्वा स्वाधीनं कर्म कारयेत् ।
अशक्तौ बन्धनागारं प्रवेश्यो ब्राह्मणादृते ॥ ४७९ ॥
कर्षकान् क्षत्रविट्शूद्रान् समीहानांस्तु दापयेत् ॥४८०॥

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473 मिता on या II 20 अपरार्क p 625 व्य मा p 312 (reads नाधिक धनम्) स्मृतिच० III p 283, परा मा III p 203 वि र p. 48 वीर० p 132

474 व्य मा p 311 (reads मिथ्याल्पमपि and दाप्य स्यादिति युक्तो) स्मृतिच० III p 283

475 स्मृतिच० III p 289

476 दायभाग

477 मित on या II 40 अपरार्क p 645 (reads स्वामिनो) स्मृतिच० III p 285 परा मा III p 200

478 मिता० on या II 40 (first half only) अपरार्क p 645 (first half only) परा मा III pp 200 and 256 स्मृतिच० III p 284 (first half) अपरार्क reads छलेन न च दापयेत्

479 मिता on या II 26, अपरार्क p 633 (reads बद्ध्वा स्वामिन कर्म) स्मृतिच० III pp 292 and 390 परा मा III p 209

480 स्मृतिच० III p 384

आचार्यस्य पितुर्मातुर्बान्धवानां तथैव च ।
एतेषामपराधेषु दण्डो नैव विधीयते ॥४८१॥
प्राणात्यये तु यत्र स्यादकार्यकरणं कृतम् ।
दण्डस्तत्र तु नैव स्यादेष धर्मो भृगुस्मृतः ॥४८२॥
न जातु ब्राह्मणं हन्यात्सर्वपापेष्ववस्थितम् ।
राष्ट्रादेनं बहिः कुर्यात्समग्रधनमक्षतम् ॥४८३॥
चतुर्णामपि वर्णानां प्रायश्चित्तमकुर्वताम् ।
शारीरधनसंयुक्तं दण्डं धर्म्यं प्रकल्पयेत् ॥४८४॥
येन दोषेण शूद्रस्य दण्डो भवति धर्मतः ।
तेन चेत्क्षत्रविप्राणां द्विगुणो द्विगुणो भवेत् ॥४८५॥
प्रव्रज्यावसितं शूद्रं जपहोमपरायणम् ।
वधेन शासयेत्पापं दण्ड्यो वा द्विगुणं दमम् ॥४८६॥
सर्वेषु चापराधेषु पुंसो योऽर्थदमः स्मृतः ।
तदर्धं योषितो दद्युर्वधे पुंसोऽङ्गकर्तनम् ॥४८७॥
नास्वतन्त्राः स्त्रियो ग्राह्याः पुमांस्तत्रापराध्यति ।
प्रभुणा शासनीयास्ता राजा तु पुरुषं नयेत् ॥४८८॥
प्रोषितस्वामिका नारी प्रापिता यद्यपि ग्रहे ।
तावत्सा बन्धने स्थाप्या यावत्प्रत्यागतः प्रभुः ॥४८९॥
कल्पितो यस्य यो दण्डस्त्वपराधस्य यत्नतः ।
पणानां ग्रहणं तु स्यात्तन्मूल्यं वाथ राजनि ॥४९०॥
माषपादो द्विपादो वा दण्डो यत्र प्रवर्तितः ।
अनिर्दिष्टं तु विज्ञेयं माषकं तु प्रकल्पयेत् ॥४९१॥

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481 स्मृतिच० III p 296 परा मा III p 206
482 स्मृतिच० III p 297 परा मा III p 211 (read दण्ड तत्र)
483–484 परा मा III p 208 Verse 483 is मनु 8 380
485 स्मृतिच० III p 298 परा मा III p 211 ascribes to पितामह
486 स्मृतिच० III p 298 परा मा III p 212 ascribes to पितामह
487 स्मृतिच० III p 745 व्य म p 246
488 स्मृतिच० III p 749
489 स्मृतिच० III p 749
490–492 स्मृतिच० III p 299 कुल्लूक on मनु 8 319 reads 491 (latter

आधिभोगस्त्वशेषो यो वृद्धिस्तु परिकल्पित ।
प्रयोगो यत्र चैव स्यादाधिभोग स उच्यते ॥५०१॥

(अकृतवृद्धि)

यो याचितकमादाय तमदत्त्वा दिश व्रजेत् ।
ऊर्ध्वं सवत्सरात्तस्य तद्धन वृद्धिमाप्नुयात् ॥५०२॥
कृत्वोद्धारमदत्त्वा यो याचितस्तु दिश व्रजेत् ।
ऊर्ध्वं मासत्रयात्तस्य तद्धन वृद्धिमाप्नुयात् ॥५०३॥
स्वदेशेपि स्थितो यस्तु न दद्याद्याचित क्वचित् ।
स ततोकारिता वृद्धिमनिच्छन्त च दापयेत् ॥५०४॥
प्रीतिदत्त न वर्धेत यावन्न प्रतियाचितम् ।
याच्यमानमदत्त चेद्वर्धते पञ्चक शतम् ॥५०५॥
निक्षिप्त वृद्धिशेष च क्रयविक्रयमेव च ।
याच्यमानमदत्त चेद्वर्धते पञ्चक शतम् ॥५०६॥
पण्य गृहीत्वा यो मूल्यमदत्त्वैव दिश व्रजेत् ।
ऋतुत्रयस्योपरिष्टात्तद्धन वृद्धिमाप्नुयात् ॥५०७॥

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501 स्मृतिच॰ III p 360 (reads वृद्धि तु), वि र p 12 वि चि p 4, वीर॰ p 295

502 मिता॰ (on या II 38) स्मृतिच॰ III p 364 परा मा III p 223, वि र p 16 (reads ऋतुत्रयस्योपरिष्टात्) स वि p. 225, वीर॰ p 301

503 मिता on या II 38 अपरार्क p 642 (reads ऋतुत्रयस्योपरिष्टात् for ऊर्ध्वं &c) वि र p 15 परा मा III p 223 वीर॰ p 302

504 मिता॰ on या II 38 अपरार्क p 642 (reads याचितोऽसकृत् and 'स ततोकारितो च्छन्तमपि चानहेत्), स्मृतिच॰ III p 364, वि र p 15 (reads याचितोसकृत् and स ततोकारितो च्छन्तमपि चावहेत्), स वि p 225, वीर॰ p 302

505 स्मृतिच॰ III p 365, कुल्लूक (on मनु 8 152), परा मा III p, 223, वि र p 15, स वि p 226

506 मिता॰ on या II 66 परा मा III p 224, वि र p 15 वीर॰ p 302 वि चि p 6

507 स्मृतिच॰ III p 363 परा मा III p 224 वि र p 15, स वि p 225, वीर॰ p 302

चर्मसस्यासवद्यूते पण्यमूल्ये च सर्वदा।
स्त्रीशुल्केषु न वृद्धिः स्यात्प्रातिभाव्यागतेषु च ॥५०८॥

(वृद्धेः परिमाणं)

ग्राह्यं स्याद् द्विगुणं द्रव्यं प्रयुक्तं धनिनां सदा।
लभते चेन्न द्विगुणं पुनर्वृद्धिं प्रकल्पयेत् ॥५०९॥
मणिमुक्ताप्रवालानां सुवर्णरजतस्य च।
तिष्ठति द्विगुणा वृद्धिः फालकैदाविकस्य च ॥५१०॥
तैलानां चैव सर्वेषां मद्यानामथ सर्पिषाम्।
वृद्धिरष्टगुणा ज्ञेया गुडस्य लवणस्य च ॥५११॥
कुप्यं पञ्चगुणं भूमिस्तथैवाष्टगुणा मता।
सद्य एवेति वचनात् सद्य एव प्रदीयते ॥५१२॥

(ऋणोद्धरणं)

(अनेकर्णसमवाये विधिः)

एकाहे लिखितं यत्तु तत्तु कुर्यादृणं समम्।
ग्रहणं रक्षणं लाभमन्यथा तु यथाक्रमम् ॥५१३॥
नानर्णसमवाये तु यद्यत्पूर्वकृतं भवेत् ॥
तत्तदेवाग्रतो देयं राज्ञः स्याच्छ्रोत्रियादनु ॥५१४॥
यस्य द्रव्येण तत्पण्यं साधितं यो विभावयेत्।
तद् द्रव्यमृणिकेनैव दातव्यं तस्य नान्यथा ॥५१५॥

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508 परा. मा. III. p. 225, स्मृतिच॰ III. p. 366, वि. र. p. 20, स. वि. p. 226, वीर॰ p. 304.

509 अपरार्क p. 643, वि. र. p. 72, वीर॰ p. 338.

510 वि. र. p. 17, स. वि. p. 226, वि. चि. p 8, व्य. म. p 170.

511 स्मृतिच॰ III. p. 373, परा. मा. III. p. 228, वि. र. p 19, स. वि. p. 227, वीर॰ p 299, व्य. म. p. 170.

512 स. वि. p. 230.

513 अपरार्क p. 645, स्मृतिच॰ III. p. 391, स वि. p. 255, वीर॰ p. 339.

514 स्मृतिच॰ III. p. 390, स. वि. p 255, वीर॰ p. 339.

515 अपरार्क p. 645, स्मृतिच॰ III. p. 391, परा. मा. III. p 259, स. वि. p. 255, वीर॰ p. 340.

(आधि)

द्रव्य गृहीत्वा वृद्ध्यर्थं भोगयोग्य ददाति चेत्।
जङ्गम स्थावर चापि भोग्याधि स तु कथ्यते ॥
मूल्य तदाधिक दत्त्वा स्वक्षेत्रादिकमाप्नुयात् ।५१६॥
आधिमेक द्वयोर्यस्तु कुर्यात्ता प्रतिपन्नयेत् ।
तयो पूर्वकृत ग्राह्य तत्कर्ता चारदण्डभाक ॥५१७॥
आधान विक्रयो दान लेख्यसाक्ष्यकृत यदा ।
एकक्रियाविरुद्ध तु लेख्य तत्रापहारकम् ॥५१८॥
अनिर्दिष्ट च निर्दिष्टमत्र च विलेखितम् ।
विशेषलिखित ज्याय इति कात्यायनोऽब्रवीत् ।५१९॥
यो विद्यमान प्रथममनिर्दिष्टस्वरूपकम् ।
आकाशभूतमाद्ध्यादनिर्दिष्ट च तद्भवेत् ॥
यद्यत्तदाद्य विषे तदादिष्ट विनिर्दिशत् । ५२०॥
यस्तु सर्वस्वमादिश्य प्राक् पश्चाद्ग्राममचिह्नितम् ।
आदध्यात्तत्कथ न स्याच्चिह्नित बलवत्तरम् ॥५२१॥
मर्यादाचिह्नित क्षेत्र ग्राम वापि यदा भवेत् ।
ग्रामाद्यश्च लिख्यन्ते तदा सिद्धिमवाप्नुयात् ॥५२२॥

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516 स वि p 234

517 स्मृतिच० III p 337 परा मा III p 234 (reads द्वयो कृत्वा यथका) व्रि र p 35 (reads आधाता for तत्कर्ता) स वि p 237 (reads क्षेत्र पतिर्भवेत), वीर० p 312

518 स्मृतिच० III p 338 परा मा III p 234 स वि p 237, वीर० p. 312 कृत्यकल्पतरु

519 स्मृतिच० III p 338 परा मा III p 235 (reads अनिर्दिष्टाच्च निर्दिष्ट) स वि p 237, वीर० p 312 कृत्यकल्पतरु

520 परा मा III p 235 (reads प्रथममनिर्दिष्ट० आकाशभूतमाधान) वीर० p 313 स्मृतिच० III p 338 (reads अनिर्दिष्ट० दध्यादादिष्ट नेव तद्भवत्)

521 स्मृतिच० III p 338 (reads कथ नु स्यात्) स वि p 236 (reads आदध्यात् कथ नु स्यात्) वीर० p 313

522 स्मृतिच० III p 336 स वि p 236

आधीकृतं तु यत्किंचिद्विनष्टं दैवराजतः ।
तत्रर्णं सोदयं दाप्यो धनिनामधमर्णकः ॥५२३॥
न चेद्धनिकदोषेण निपतेद्वा म्रियेत वा ।
आधिमन्यं स दाप्यः स्यादृणान्मुच्येत नर्णिकः॥५२४॥
अकाममननुज्ञातमाधिं यः कर्म कारयेत् ।
भोक्ता कर्मफलं दाप्यो वृद्धिं वा लभते न सः ॥५२५॥
यस्त्वाधिं कर्म कुर्वाणं वाचा दण्डेन कर्मभिः ।
पीडयेद्भर्त्सयेच्चैव प्राप्नुयात्पूर्वसाहसम् ॥५२६॥
बलादकामं यत्राधिमनिसृष्टं प्रवेशयेत् ।
प्राप्नुयात्साहसं पूर्वमाधाता चाधिमाप्नुयात् ॥५२७॥
आधिं दुष्टेन लेख्येन भुङ्क्ते यमृणिकाद्धनी ।
नृपो दमं दापयित्वा आधिलेख्यं विनाशयेत् ॥५२८॥
आधाता यत्र न स्यात्तु धनी बन्धं निवेदयेत् ।
राज्ञस्ततः स विख्यातो विक्रेय इति धारणा ॥
सवृद्धिकं गृहीत्वा तु शेषं राजन्यथार्पयेत् ॥५२९॥

(प्रतिभूविधानम्)

दानोपस्थानवादेषु विश्वासशपथाय च ।
लग्नकं कारयेदेवं यथायोगं विपर्यये ॥५३०॥

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523 स्मृतिच० III p 321, वि र p. 27.
524 स्मृतिच० III p 323 (reads निपतेद्विक्रियेत), वि. र. p. 26, स. वि. p. 236 (reads स चेद्धनिक० and सर्णिक for नर्णिक.), वि. चि. p. 11, वीर० p 309
525 अपरार्क p 659, स्मृतिच० III. p 326, परा.मा.III. p. 238, वि. र.p. 24, स वि p 235, वीर० 20 p. 308.
526 स्मृतिच० III, p 326, परा. मा III p 238, वि र. p. 25, वीर० p 308
527 स्मृतिच० III p 326, स. वि. p 235
528 स्मृतिच० III p. 329, स वि p. 24, वीर० p. 310.
529 अपरार्क p. 658, स्मृतिच० III. p 333, परा मा. III. p. 241, वि. र. p. 34 (reads यत्र नष्टः स्यात्), स वि p 245, वि. चि. p. 11, वीर० p 317.
530 अपरार्क p 655 (reads °स्थानविश्वासविवादशपथाय), स्मृतिच० III. p 347, परा मा III p 249, स वि p 247 (reads दानोपस्थान०), वीर० p. 323.

दर्शनप्रतिभूर्यस्तं देशे काले न दर्शयेत्।
निबन्धमावहेत्तत्र दैवराजकृताद्दते ॥५३१॥
नष्टस्यान्वेषणार्थं तु देयं पक्षत्रयं परम्।
यद्यसौ दर्शयेत्तत्र मोक्तव्यः प्रतिभूर्भवेत् ॥५३२॥
काले व्यतीते प्रतिभूर्यदि तं नैव दर्शयेत्।
स तमर्थं प्रदाप्य स्यात् प्रेते चैवं विधीयते ॥५३३॥
गृहीत्वा बन्धकं यत्र दर्शनेस्य स्थितो भवेत्।
विना पित्रा धनं तस्माद् दाप्य-स्यात्तदृणं सुत ॥५३४॥
यो यस्य प्रतिभूस्तिष्ठेद्दर्शनायेह मानव ।
अदर्शयन्स तं तस्मै प्रयच्छेत्स्वधनादृणम् ॥५३५॥
आद्यौ तु वितथे दाप्यौ तत्कालावेदितं धनम्।
उत्तरौ तु विसंवादे तौ विना तत्सुतौ तथा ॥५३६॥
एकच्छायाश्रिते सर्वं दद्यात्तु प्रोषिते सुत.।
मृते पितरि पित्रंशं परर्ण न बृहस्पति ॥५३७॥

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531 अपरार्के p 655, स्मृतिच० III. p 349, वि र p 41, वीर० p 323, व्य म. p. 176 स. वि p 247 and वीर० also at pp 321 322 read देशे काले च दर्शयेत् and connect that half verse with यद्यसौ. .र्भवेत् below

532–533 मिता on या II. 57, अपरार्के p 656 (only 532), स्मृतिच० III. p 348, वि र p 42, स वि p 248 (reads कालेऽयतीते and कार्ये चैव विधिः), वीर० pp. 323 and 330, परा मा III p 24 (reads काले प्रतीते) स्मृतिच० and वीर० also at p 323 reads काले प्रतीते

534 मिता० on या. II 54 अपरार्के p 656 (reads यस्तु दर्शनस्य and विभाव्य वादिना तत्र दाप्यः) परा मा III 251, वि र p 43 (follows अपरार्के), वीर० p. 326 स्मृतिच० III p 353 (reads यस्तु दर्शनप्रतिभूः स्थित विभाव्य वादिना तत्र)

535–536 वीर० p 322 attributes to both कात्यायन and बृहस्पति वीर० p 325 attributes verse 536 to बृहस्पति परा मा III p 250 and व्य. म. p 176 attribute 536 to बृहस्पति

537 स्मृतिच. III p 355, वीर० p 327 (says that this is the reading of the स्मृतिच०)

एकच्छायाप्रविष्टानां दाप्यो यस्तत्र दृश्यते ।
प्रोषिते तत्सुत सर्वं पित्रंशं तु मृते सुत. ॥५३८॥
प्रातिभाव्यं तु यो दद्यात् पीडित प्रतिभावितः।
त्रिपक्षात्परत सोऽर्थं द्विगुणं लब्धुमर्हति ॥५३९॥
यस्यार्थे येन यद्दत्तं विधिनाभ्यर्थितेन तु ।
साक्षिभिर्भावितेनैव प्रतिभूस्तत्समाप्नुयात् ॥५४०॥
सत्यंकारविसंवादे द्विगुणं प्रतिदापयेत् ।
अकुर्वतस्तु तद्धानि सत्यंकारप्रयोजनम् ॥५४१॥
(पित्रादिभि कृतमृण केन प्रतिदेयम्)
कुटुम्बार्थमशक्तेन गृहीतं व्याधितेन वा ।
उपप्लवनिमित्ते च विद्यादापत्कृते तु तत् ॥५४२॥
कन्यावैवाहिकं चैव प्रेतकार्ये च यत्कृतम् ।
एतत्सर्वं प्रदातव्यं कुटुम्बेन कृतं प्रभो. ॥५४३॥
ऋणं पुनर्कृतं पित्रा न देयमिति धर्मत. ।
देयं प्रतिश्रुत यत्स्यात् यच्च स्यादनुमोदितम् ॥५४४॥
प्रोषितस्यामतेनापि कुटुम्बार्थमृणं कृतम् ।
दासस्त्रीमातृशिष्यैर्वा दद्यात्पुत्रेण वा भृगुः ॥५४५॥

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538 मिता० on या II 55 (reads मृते समम्), परा मा III p 251, वि. र. p 52 (reads पित्र्यर्णं मृतस्य च), स वि p 250, वीर० p 327 (पित्र्यमश मृते तु स)

539 अपरार्क p 657, स्मृतिच० III p 357, परा मा. III p. 252 (reads दण्डित for पीडित), वि र p 45, वीर० p 328 (ascribes to both कात्यायन and बृह०)

540 अपरार्क p 657, स्मृतिच० III p 356 (reads विवादेऽभ्यर्थितेन), वि र. p. 46 (°भ्यर्थितेन) वीर० p 328

541 विश्वरूप on या II 63

542-543 अपरार्क p 647, स्मृतिच० III p 408 (reads अशक्ते तु, व्याधि॰ ॰तेषत्र) परा मा III p 268, वि र p 56, वीर० p 352, स. वि. p 253 (changes the order of the lines)

544 स्मृतिच० III p 408 409, वीर० p 353, स वि p 263 (latter half), वि र p 57 (reads यच्च स्यादनुमोदितम्)

545 अपरार्क p 648 (reads दासस्त्रीमातृ०), स्मृतिच० III p 407, परा. मा III p 268 (reads दद्यात्पुत्रेण वा पिता), वि र p 56, स वि p 263

भर्त्रा पुत्रेण वा सार्धं केवलेनात्मना कृतम् ।
ऋणमेवंविधं देयं नान्यथा तत्कृतं स्त्रिया ॥५४६॥
मर्तुकामेन या भर्त्रा प्रोक्ता देयमृणं त्वया ।
अप्रपन्नापि सा दाप्या धनं यद्याश्रितं स्त्रियाम् ॥५४७
विद्यमानेपि रोगार्ते स्वदेशात्प्रोषितेपि वा ।
विंशात्संवत्सराद्देयं ऋणं पितृकृतं सुतैः ॥ ५४८ ॥
व्याधितोन्मत्तवृद्धानां तथा दीर्घप्रवासिनाम् ।
ऋणमेवंविधं पुत्रान् जीवतामपि दापयेत् ॥ ५४९ ॥
सांनिध्येपि पितुः पुत्रैर्ऋणं देयं विभावितम् ।
जात्यन्धपतितोन्मत्तक्षयश्वित्रादिरोगिणः ॥ ५५० ॥
पितॄणां सूनुभिर्जातैर्दीनैर्नैवाधमादृणात् ।
विमोक्षस्तु यतस्तस्मादिच्छन्ति पितरः सुतान् ॥५५१॥
नाप्राप्तव्यवहारेण पितर्युपरते क्वचित् ।
काले तु विधिना देयं वसेयुर्नरकेन्यथा ॥ ५५२ ॥
अप्राप्तव्यवहारश्चेत्स्वतन्त्रोपीह नर्णभाक् ।
स्वातन्त्र्यं हि स्मृतं ज्येष्ठे ज्यैष्ठे (श्रैष्ठ्ये?) गुणवयःकृतम् ॥५५३॥
यद्दत्तं दत्तदोषं वा देयं पैतामहं तु तत् ।
सदोषं व्याहृतं पित्रा नैव देयमृणं क्वचित् ॥ ५५४ ॥

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546 अपरार्क p 649, स्मृतिच० III p 411, वि र p 60, वीर० p 353
547 स्मृतिच० III p 412 परा मा III p 270 (धन दद्यात्सुतो यथा), स वि p 263 वीर० p 354
548 अपरार्क p 650, स्मृतिच० III p 394 परा. मा III p 263, स वि p 256, वीर० p 342
549 अपरार्क p 650, वि र p 51
550 अपरार्क p 650, वि र p 51, परा मा III p 263, वि चि p 16, स्मृतिच० III p 394 All except अपरा० ascribe to बृहस्पति
551 स्मृतिच० III p 393 परा मा III p 263, वीर० p 341
552 अपरार्क p 650 स्मृतिच० III p 393 (reads °व्यवहारैस्तु) वि र p 54 (°व्यवहारैस्तु) परा मा III p 263
553 स्मृतिच० III p 393 (first half) वीर० pp 340 341
554 अपरार्क p 650, स्मृतिच० III p 398 (reads पदप दत्तदेय) वि र p 48, वि चि p 16

पित्रा दत्तमृणं यत्तु क्रमायातं पितामहात् ।
निर्दोषं नोद्धृतं पुत्रैर्देयं पौत्रैस्तु तद्भृगु ॥ ५५५ ॥
पैतामहं तु यत्पुत्रैर्न दत्तं रोगिभिः स्थितैः ।
तस्मादेवंविधं पौत्रैर्देयं पैतामहं समम् ॥ ५५६ ॥
ऋणं तु दापयेत्पुत्रं यदि स्यान्निरुपद्रव ।
द्रविणार्हश्च धुर्यश्च नान्यथा दापयेत्सुतम् ॥५५७॥
यद्देयं पितृभिर्नित्यं तदभावे तु तद्धनात् ।
तद्धनं पुत्रपुत्रैर्वा देयं तत्स्वं मिते तदा ॥ ५५८ ॥
पित्रर्णे विद्यमाने तु न च पुत्रो धनं हरेत् ।
देयं तद्धनिके द्रव्यं मृते पुत्रैस्तु दाप्यते ॥५५९॥
पुत्राभावे तु दातव्यमृणं पौत्रेण यत्नतः ।
चतुर्थेन न दातव्यं तस्मात्तद्धि निवर्तते ॥५६०॥
प्रातिभाव्यागतं पौत्रैर्दातव्यं न तु तत्क्वचित् ।
पुत्रेणापि समं देयमृणं सर्वत्र पैतृकम् ॥५६१॥
रिक्थहर्त्रा ऋणं देयं तदभावे च योषितः ।
पुत्रैश्च तदभावेन्यै रिक्थभाग्भिर्यथाक्रमम् ॥५६२॥
यावत्र पैतृकं द्रव्यं विद्यमानं लभेत्सुतः ।
सुसमृद्धोपि दाप्य. स्यात्तावदेवाधमर्णिकः ॥५६३॥

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555 अपरार्क p. 651, स्मृतिच॰ III p 397, वि. र. p. 48, स. वि. p. 258.

556 स्मृतिच॰ III p. 398, वि र. p. 48

557 अपरार्क p. 651, स्मृतिच॰ III. p 394, परा मा. III. p. 263, वि. र. p. 63, वीर॰ p 351

558 स. वि. p. 258

559 स्मृतिच॰ III p 395, परा. मा. III. p. 264, वीर॰ p 344 (reads पुत्रैस्तु दाप्यते)

560 स्मृतिच॰ III p. 399 (तस्मात्तद्धि निवर्तते), परा. मा. III. p. 264, वि र. p. 49 (reads पित्र्यमात and चतुर्थेन यदा दत्तं), वीर॰ p. 342 (reads पित्रभावे तु)

561 अपरार्क p. 650, वि र. p 44.

562-563 विश्वरूप on या., II. 47.

लिखितं मुक्तकं वापि देयं यत्तु प्रतिश्रुतम् ।
परपूर्वस्त्रियै यत्तु विद्यात्कामकृतं नृणाम् ॥५६४॥
यत्र हिंसां समुत्पाद्य क्रोधाद् द्रव्यं विनाश्य वा ।
उक्तं तुष्टिकरं यत्तु विद्यात्क्रोधकृतं तु तत् ॥५६५॥
स्वस्थेनार्तेन वा देयं श्रावितं धर्मकारणात् ।
अदत्त्वा तु मृते दाप्यस्तत्सुतो नात्र संशयः ॥५६६॥
निर्धनैरनपत्यैस्तु यत्कृतं शौण्डिकादिभिः ।
तत्स्त्रीणामुपभोक्ता तु दद्यात्तदृणमेव हि ॥५६७॥
शौण्डिकव्याधजनकगोपनाविकयोषिताम् ।
आधिष्ठाता ऋणं दाप्यस्तासां भर्तृक्रियासु तत् ॥५६८॥
न च भार्याकृतमृणं कथंचित्पत्युराभवेत् ।
आपत्कृतादृते पुंसां कुटुम्बार्थे हि विस्तरः ॥५६९॥
अन्यत्र रजकव्याधगोपशौण्डिकयोषिताम् ।
तेषां तु तत्परा वृत्तिः कुटुम्बं च तदाश्रयम् ॥५७०॥
अमतेनैव पुत्रस्य प्रधना यान्यमाश्रयेत् ।
पुत्रेणैवापहार्यं तद्धनं दुहितृभिर्विना ॥५७१॥
ऋणार्थमाहरेत्तन्तु न सुखार्थं कदाचन ।
अयुक्ते कारणे यस्मात्पितरौ तु न दापयेत् ॥ ५७२ ॥
या स्वपुत्रं तु जह्यात्स्त्री समर्थमपि पुत्रिणी ।
आहृत्य स्त्रीधनं तत्र पित्र्यर्णं शोधयेन्मनुः ॥ ५७३ ॥
बालपुत्राधिकार्था च भर्तारं यान्यमाश्रिता ।
आश्रितस्तदृणं दद्याद्बालपुत्राविधिः स्मृत ॥ ५७४ ॥

564–565 अपरार्के p. 648, स्मृतिच॰ III. p 396, परा मा. III. p. 266 वि. र. p. 58, वि. चि. p. 17, स वि. p. 257, वीर॰ pp. 343-344
566 विवादचन्द्र, वि. चि. p. 16, (reads मुक्तेन) व्य. म p. 206.
567 अपरार्के p. 652, वि र. p. 62., व्य म p. 187, वि. चि. p. 19.
568 वीर॰ p. 354.
569–570 वीर॰ p. 354 वि. चि p 19 ascribes these two to नारद. अपरार्क (p 649) also does so
571–573 वि. र p. 65
574 अपरार्के p 654, स्मृतिच॰ III. p 406 (reads भ्रातारं यान्य॰), परा. मा. III. p. 275 (reads भ्रातरं या॰), स. वि p. 263 (reads पुत्रादिकर्तो य भ्रातारं and बालपुत्रादिविश्रुतम्), वीर॰ p. 355, वि. र. p. 66.

दीर्घप्रवासिनिर्बन्धुजडोन्मत्तार्तलिङ्गिनाम् ।
जीवतामपि दातव्यं तत्स्त्रीद्रव्यसमाश्रितैः ॥ ५७५ ॥
व्यसनाभिप्लुते पुत्रे बालो वा यत्र दृश्यते ।
द्रव्यहृद्दाप्यते तत्र तस्याभावे पुरन्धिहृत् ॥ ५७६ ॥
पूर्वं दद्याद्धनग्राहः पुत्रस्तस्मादनन्तरम् ।
योषिद्ग्राहः सुताभावे पुत्रो वात्यन्तनिर्धनः ॥ ५७७ ॥
देयं भार्याकृतमृणं भर्त्रा पुत्रेण मातृकम् ।
भर्तुरर्थे कृतं यत्स्यादभिधाय गते दिवम् ॥ ५७८ ॥
देयं पुत्रकृतं तत्स्याद्यच्च स्यादनुवर्णितम् ।
कृतासवादितं यच्च श्रुत्वा चैवानुचोदितम् ॥ ५७९ ॥

(अधमर्णिकस्यावरोधादिना धनाद्यासविचारः)

धार्योऽवरुद्धस्त्वृणिकः प्रकाशं जनसंसदि ।
यावच्च दद्याद्देयं च देशाचारस्थितिर्यथा ॥ ५८० ॥
विण्मूत्रशङ्का यस्य स्याद्धार्यमाणस्य देहिनः ।
पृष्ठतो वानुगन्तव्यो निबद्ध वा समुत्सृजेत् ॥ ५८१ ॥
स कृतप्रतिभूश्चैव मोक्तव्यः स्याद्दिने दिने ।
आहारकाले रात्रौ च निबन्धे प्रतिभूः स्थितः ॥५८२॥
यो दर्शनप्रतिभुवं नाधिगच्छेच्च चाश्रयेत् ।
स चारके निरोद्धव्यः स्थाप्यो वा वेच रक्षिणः ॥५८३॥
न चारके निरोद्धव्य आर्यः प्रात्ययिकः शुचिः ।
सोऽनिबद्धः प्रमोक्तव्यो निबद्धः शपथेन वा ॥ ५८४ ॥

575 अपरार्क p 654 (reads 'द्रव्य समाश्रितैः) वि र p 66, वि चि p 20

576 स्मृतिच॰ III. p 402 वि र p 64 and वि चि p 18 (read वाले), वीर॰ p 351 (reads बाले वा दृश्यते)

577 स्मृतिच॰ III p 403 वीर॰ p 351

578-579 स्मृतिच॰ III p 407 वीर॰ p 353 (reads अविधाय and has 578 only) वि र p 59 (has only 578 and reads भर्त्तृयार्थे)

580 स्मृतिच॰ III p 384 वि र p 67, व्य म p 179 वीर॰ p 334

581 स्मृतिच॰ III p 384 वि र p. 69 (reads सदा for शङ्का and निबन्ध) व्य म p 179 (reads निबन्ध), वीर॰ p 334

582-584 स्मृतिच॰ III p 385, वीर॰ pp 434-435 (reads वारक in 583-584), वि र p. 69 (reads ह्यनिबद्ध and निबद्ध शपथम)

पीडनेनोपरोधेन साधयेद्वणिक धनी ।
कर्मणा व्यवहारेण सान्त्वेनादौ विमर्शित ॥ ५८५ ॥
आददीतार्थमेव तु व्याजेनाचरितेन च ।
कर्मणा स्वजविट्शूद्रान् समहीनांश्च दापयेत् ॥५८६॥
राजान स्वामिन विप्र सान्त्वेनैव प्रदापयेत् ।
रिक्थिन सुहृद वापि छलेनैव प्रसाधयेत् ॥ ५८७
वणिज कर्षकांश्चैव शिल्पिनश्चाब्रवीद्गुरु ।
देशाचारेण दाप्या स्युर्दुर्मान सपीड्य दापयेत् ५८८॥
पीडयेत्तु धनी यत्र ऋणिक न्यायवादिनम् ।
तस्मादर्थात्स हीयेत तत्सम चाप्नुयाद्दमम् ॥ ५८९ ॥
यदि ह्यादावनादिष्टमशुभ कर्म कारयेत् ।
प्राप्नुयात्साहस पूर्वमृणान्मुच्येत वणिक ॥ ५९० ॥
उद्धारादिकमादाय स्वामिने न ददाति य ।
स तस्य दासो भृत्य स्त्री पशुर्वा जायते गृहे ॥ ५९१ ॥

(उपनिधि)

क्रय मोषित निक्षिप्त यन्धान्वाहितयाचितम् ।
वैश्यवृत्त्यर्पित चैव सोऽर्थस्तूपनिधि स्मृत ॥ ५९२॥
निक्षिप्त यस्य यत्किंचित्तत्प्रयत्नेन पालयेत् ।
दैवराजकृतादन्यो विनाशस्तस्य कीर्त्यते ॥ ५९३ ।

585–586 वि र pp 68 and 71 वीर० p 333 (reads विमर्शित and कर्षकान् क्षत्र०) remarks that कल्पतरु read कर्मणा क्षत्र०

587–588 स्मृतिच० III p 384 वि र p 69, वीर० pp 333 334 वि चि p. 21 अपरार्क p 645 (has 587 and latter half of 588 and reads राजा तु and छलेन न च दापयेत्)

589 मिता० on या II 40 स्मृतिच० III p 388 अपरार्क p 645, परा मा III p 258 वीर० p 336

590 वि र p 71 वीर० p 339 अपरार्क p 647

591 स्मृतिच० III p 376 परा मा III p 261 व्य म p. 184 वीर० p. 357

592 अपरार्क p 662 स्मृतिच० III p 5 वि र p 84 (reads क्रय प्रोषि तनिक्षिप्तो), वि चि p 26

593 स्मृतिच० III 419, वीर० p 364

यस्य दोषेण यत्किंचिद्विनाश्येत ह्रियेत वा
तद् द्रव्यं सोदयं दाप्यो दैवराजकृताद्विना ॥ ५९४॥
याचितानन्तरं नाशे दैवराजकृतेपि स ।
ग्रहीता प्रतिदाप्यः स्यान्मूल्यमात्रं न संशयः ॥५९५॥
न्यासादिकं परद्रव्यं प्रभक्षितमुपेक्षितम् ।
अज्ञाननाशितं चैव येन दाप्य स एव तत् ॥ ५९६ ॥
भक्षितं सोदयं दाप्य समं दाप्य उपेक्षितम् ।
किंचिन्न्यूनं प्रदाप्य स्याद् द्रव्यमज्ञाननाशितम् ॥५९७॥
अराजदैविकेनापि निक्षिप्तं यत्र नाशितम् ।
ग्रहीतु सह भाण्डेन दातुर्नष्टं तदुच्यते ॥ ५९८ ॥
ज्ञात्वा द्रव्यवियोगं तु दाता यत्र विनिक्षिपेत् ।
सर्वोपायविनाशेपि ग्रहीता नैव दाप्यते ॥ ५९९ ॥
ग्राहकस्य हि यद्दोषान्नष्टं तु ग्राहकस्य तत् ।
तस्मिन्नष्टे हृते वापि ग्रहीता मूल्यमाहरेत् ॥ ६०० ॥
ग्राह्यस्तूपनिधिः काले कालहीनं तु वर्जयेत् ।
कालहीनं दद्द्दण्डं द्विगुणं च प्रदाप्यते ॥ ६०१ ॥

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594 अपरार्क p 663, स्मृतिच॰ III p 419, वि र p 89, वि चि. p. 24, वीर॰ p. 364

595 स्मृतिच॰ III. p 420 (has not the words मूल्य ..संशय.), वीर॰ p. 364 (attributes to व्यास)

596 स्मृतिच॰ III. p 420, परा. मा III. p. 283, वीर॰ p 364, वि. र. p 89, वि. चि 26.

597 मिता॰ on या. II 67, वीर॰ p 364 (attributes to व्यास and कात्यायन), परा मा. III p 283 (ascribes to व्यास).

598 अपरार्क p. 663, स्मृतिच॰ III. p. 417, परा मा. III p 282, वि. र. p. 88, वीर॰ p. 363 (reads राजदैविकचौरैर्वा निक्षिप्तं).

599 स्मृतिच॰ III. p. 418, परा मा III. p. 283, वि र. 89 (read सर्वोपाय॰), वीर॰ p 363

600 वि र. p 89, वि. चि. p 24 (first half), वि. र p. 89 has first half

601 अपरार्क p. 663, स्मृतिच॰ III p 422, परा मा III. 286, वि. र. p. 93 (reads कालहीने), वीर॰ p 367.

सर्वेषूपनिधिष्वेते विधयः परिकीर्तिता ॥ ६०२ ॥
यैश्च संस्क्रियते न्यासो दिवसै परिनिश्चितै. ।
तदूर्ध्वं स्थापयेच्छिल्पी दाप्यो दैवहृतेपि तत् ॥६०३॥
न्यासदोषाद्विनाश स्याच्छिल्पिनं तत्र दापयेत् ।
दापयेच्छिल्पिदोषात्तत्संस्कारार्थं यदर्पितम् ॥ ६०४ ॥
स्वल्पेनापि च यत्कर्म नष्टं चेत्कृतकस्य तत् ।
पर्याप्तं दिरसतस्तस्य विनश्येत्तद्गृहत ॥ ६०५ ॥
यदि तत्कार्यमुद्दिश्य काल परिनियम्य वा ।
याचितोर्थकृते तस्मिन्नप्राप्ते न तु दाप्यते ॥ ६०६ ॥
प्राप्तकाले कृते कार्ये न दद्याद्याचितोपि सन् ।
तस्मिन्नष्टे हृते वापि प्रदीाना मूल्यमाहरेत् ॥ ६०७ ॥
याच्यमानो न दद्याद्वा दाप्यस्तत्सोदयं भवेत् ।
अथ कार्यविपत्तिस्तु तस्यैव स्वामिनो भवेत् ।
अप्राप्ते चै स काले तु दाप्यस्त्वर्थहृतेपि तत् ॥ ६०९॥
यो याचितकमादाय न दद्यात्प्रतियाचित ।
स निगृह्य बलाद्दाप्यो दण्ड्यश्च न ददाति य ॥ ६१०॥

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602 वि र p 92

603 604 स्मृतिच० III p 426 परा मा III p 288 वि र p 98 (reads परिनिष्ठितै) व्य म p 193 (has only 603 and reads परिनिष्ठितै and दैवाद्धतेपि त) वीर० p 370 (तदूर्ध्वं स्थापयन् शिल्पी and दैवाद्धतेपि तम्)

605 स्मृतिच० III p 427, परा मा. III p 289 (reads शिल्पेनापि) वीर० p 370 (ascribes to मनु and कात्यायन) वि र p 98

606 स्मृतिच० III p 427 परा. मा III p 289, वि र p 93, वीर० p 371

607 स्मृतिच०III p 428, परा मा p III p. 290 (reads तस्मिन्नष्टे मृते), वि चि p 24 वीर० p 371.

608 स्मृतिच० III p 427

609 स्मृतिच० III p 428 परा मा III p 290 वि र p 93 (reads स्वकाले) वीर० p 372.

610 अपरार्क p 664 (reads last pāda as दण्डेन च ददाति य), स्मृतिच० III p 429, वि र. p 93, वीर० p 372. •

अनुमार्गेण कार्येषु अन्यस्मिन्वचनान्मम ।
दद्यास्त्वमिति यो दत्त स ह्यन्वाधिरुच्यते ॥ ६११ ॥

(अस्वामिविक्रय)

अस्वामिविक्रयं दानमाधिं च विनिवर्तयेत् ॥ ६१२॥
अभियोक्ता धनं कुर्यात्प्रथमं ज्ञातिभिः स्वकम् ।
पश्चादात्मविशुध्यर्थं क्रयं क्रेता स्वबन्धुभिः ॥६१३॥
नाधिकस्तु प्रकुर्वीत तद्धनं ज्ञातृभि स्वकम् ।
अदत्तस्यकाविक्रीतं कृत्वा स्वं लभते धनम् ॥६१४॥
प्रकाशं वा क्रयं कुर्यान्मूलं वापि समर्पयेत् ।
मूलानयनकालस्तु देयो योजनसंख्यया ॥६१५॥
प्रकाशं च क्रयं कुर्यात्साधुभिर्ज्ञातिभिः स्वकैः ॥
न तत्रान्या क्रिया प्रोक्ता दैविकी न च मानुषी ॥६१६॥
यदा मूलमुपन्यस्य पुनर्वादी क्रयं वदेत् ।
आहरेन्मूलमेवासौ न क्रयेण प्रयोजनम् ॥६१७॥
असमाहार्यमूलस्तु क्रयमेव विशोधयेत् ।
विशोधिते क्रये राज्ञा न वक्तव्यः स किंचन ॥६१८॥

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611 वि. र. p. 84.

612 मिता. on या II. 168 (no name), स्मृतिच० III. p. 499, परा. मा. III p 291, वि र p 104, स वि p 305 .

613 अपरार्क p 777, स्मृतिच० III p 501 (first half), परा. मा. III. p. 300, वि र p. 106, वीर० p. 376 (first half)

614 अपरार्क p 777 (reads अदत्त स्वत्त०), स्मृतिच० III p. 502, परा. मा. III p. 294 (first half and reads ज्ञातृभि.), वि. र. p. 104, स. वि. p. 306, वीर० p 378.

615 मिता on या II. 170 (cites without author's name and reads देयस्तत्राप्यसङ्ख्यया), अपरार्क p. 776 (reads मूल्यं वापि), वि र p 101, व्य. म. p. 196 (latter half)

616 अपरार्क p 777, स्मृतिच० III p 503, परा. मा III p 296 (reads साक्षिभिर्ज्ञातिभि.), वि र. p 106

617 अपरार्क p 776 (reads पूर्ववादी), स्मृतिच० III p 504, परा. मा. III. p 297 (reads पूर्ववादी), वि र. 101, वीर० p. 381.

618 अपरार्क p 777 (without author's name), मिता. on या. II. 170 (first half without author's name), वि. र. p. 106, स्मृतिच० III. p. 504 (first half).

अनुपस्थापयन्मूल्यं क्रयं वाप्यविशोधयन् ।
यथाभियोगं धनिने धनं दाप्यो दमं च सः ॥६१९॥
यदि स्वं नैव कुरुते ज्ञातिभिर्नाष्टिको धनम् ।
प्रसङ्गविनिवृत्यर्थं चोरवद्दण्डमर्हति ॥६२०॥
वणिग्वीथीपरिगतं विज्ञातं राजपूरुषैः ।
अविज्ञाताश्रयात्क्रीतं विक्रेता यत्र वा मृतः ॥६२१॥
स्वामी दत्त्वार्धमूल्यं तु प्रगृह्णीत स्वकं धनम् ।
अर्धं द्वयोरपहृतं तत्र स्याद्व्यवहारतः ॥६२२॥
अविज्ञातक्रये दोषस्तथा चापरिपालनम् ।
एतद्द्वयं समाख्यातं द्रव्यहानिकरं बुधैः ॥६२३॥

(सम्भूयसमुत्थानम्)

समवेतास्तु ये केचिच्छिल्पिनो वणिजोऽपि वा ।
अविभज्य पृथग्भूताः प्राप्तं तत्र फलं समम् ॥६२४॥
भाण्डपिण्डव्ययोद्धारभारसारार्थवीक्षणम् ।
कुर्युस्तेऽव्यभिचारेण समयेन व्यवस्थिताः ॥६२५॥
प्रयोगं कुर्वते ये तु हेमधान्यरसादिना ।
समन्यूनाधिकैरंशैर्लाभस्तेषां तथाविधः ॥६२६॥
बहूनां संमतो यस्तु दद्यादेको धनं नरः ।
ऋणं च कारयेद्वापि सर्वैरेव कृतं भवेत् ॥६२७॥

619 मिता० on या. II 170 (cites as मनु's), वीर० p. 381, वि. र. p. 108, व्य. म. p. 197, स्मृतिच० III p. 504, परा. मा III, p. 297. All these except the मिता० ascribe to कात्या०.

620 अपरार्क 777 (ज्ञातृभिः for ज्ञातिभि०), स्मृतिच० III. p. 505, वि. र. p. 105, परा. मा. III p. 297

621–623 स्मृतिच० III pp 507, 508, परा मा III. pp. 297 and 300, वीर० p. 380, अपरार्क p. 775 ascribes these to बृहस्पति, the व्य. म p. 197 and कुल्लूक on मनु 8. 202 ascribe 621-622 to बृहस्पति.

624–625 अपरार्क p 832. स्मृतिच० III. p. 431 and परा मा. III. p. 304 ascribes 625 to नारद.

626–630 अपरार्क p 832–833. All are ascribed to बृहस्पति in वि. र. p. 128, स्मृतिच० ascribes 626, 627, 630 to बृहस्पति, व. वि. p.

ज्ञातिसंबन्धिसुहृदामृणं देयं सबन्धकम् ।
अन्येषां लग्नकोपेत लेख्यसाक्षियुतं तथा ॥६२८॥
स्वेच्छादेयं हिरण्यं तु रसा धान्यं च सावधि ।
देशस्थित्या प्रदातव्यं ग्रहीतव्यं तथैव च ॥६२९॥
समवेतैस्तु यद्दत्तं प्रार्थनीयं तथैव तत् ।
न च याचेत य कश्चिल्लाभात्स परिहीयते ॥६३०॥
चोरत सलिलादग्नेर्द्रव्यं यस्तु समाहरेत् ।
तस्यांशो दशमो देय सर्वथाप्येवं विधि ॥६३१॥
शिक्षकाभिज्ञकुशला आचार्याश्चेति शिल्पिन ।
एकद्वित्रिचतुर्भागान्हरेयुस्ते यथोत्तरम् ॥६३२॥
परराष्ट्राद्धनं यत्स्याच्चौरै. स्वाम्याज्ञयाहृतम् ।
राज्ञे दशांशमुद्धृत्य विभजेरन्यथाविधि ॥६३३ ॥
चोराणां मुख्यभूतस्तु चतुरोंऽशांस्ततो हरेत् ।
शूरोंऽशास्त्रीन् समर्थो द्वौ शेषास्त्वेकैकमेव च ॥६३४॥
तेषां चेत्प्रसृतानां यो ग्रहणं समवाप्नुयात् ।
तन्मोक्षणार्थं यद्दत्तं वहेयुस्ते यथांशत ॥६३५॥
नर्तकानामेष एव धर्म. सद्भिरुदाहृत ।
तालज्ञो लभते त्वर्धं गायनास्तु समांशिन ।
प्रमुखा द्व्यंशमर्हन्ति सोयं सभूय कुर्वताम् ॥६३६॥

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272 has 627 but cites no name, व्य म p 200 ascribes 627 to बृहस्पति परा मा III p 306 ascribes 627 and 630 to बृहस्पति

631 स्मृतिच॰ III p 433, परा मा III. p 305, वि र p 114 (सर्वेष्वेषु), स वि p 278

632 अपरार्क p 838, स्मृतिच॰ III p 435, परा मा III p 310 (reads शिल्पाकशिक्षकुशला and यथांशत), वि र p 124, स वि p 278, वीर॰ p. 390.

633-64 परा मा III p 311, स्मृतिच॰ III p 440 वि र pp 125-126, वीर॰ p 391, स वि p 276 (only verse 633)

635 स्मृतिच॰ III. p 441, परा मा III p 311, स वि p 276, व्य. म. p 200, वीर॰ p 391, वि र. p 126 (reads तस्य कार्या समा क्रिया)

636 परा. मा. III p 312, अपरार्क ascribes first two half lines to बृहस्पति and so do वि र. p 125, वीर॰ p 391, स वि p. 276.

वणिजां कर्षकाणां च चोराणां शिल्पिनां तथा।
अनियम्याशकर्तृणां सर्वेषामेव निर्णयः ॥६३७॥

(दत्तानपाकर्म दत्ताप्रदानिकं वा)

विक्रयं चैव दानं च न नेयाः स्युरनिच्छवः ।
दाराः पुत्राश्च सर्वस्वमात्मनैव तु योजयेत् ॥६३८॥
आपत्काले तु कर्तव्यं दानं विक्रय एव वा ।
अन्यथा न प्रवर्तेत इति शास्त्रविनिश्चयः ।६३९॥
सर्वस्वगृहवर्जं तु कुटुम्बभरणाधिकम् ।
यद्द्रव्यं तत्स्वकं देयमदेयं स्यादतोन्यथा ॥६४०॥
भतश्च सुतदाराणां वशित्वं त्वनुशासने।
विक्रये चैव दाने च वशित्वं न सुते पितुः ॥६४१।
स्वेच्छया यः प्रतिश्रुत्य ब्राह्मणाय प्रतिग्रहम्।
न दद्यादृणवद्दाप्यः प्राप्नुयात्पूर्वसाहसम् ॥६४२॥
प्रतिश्रुतस्यादानेन दत्तस्याच्छादनेन च ।
कल्पकोटिशतं मर्त्यस्तिर्यग्योनौ च जायते ॥६४३॥
अविज्ञातोपलब्ध्यर्थं दानं यत्र निरूपितम् ।
उपलब्धिक्रियालब्धा सा भृतिः परिकीर्तिता ॥६४४॥

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637 परा मा III p 312 वि र p 126 व्य म p 201, वीर० p 391, स्मृतिच० III p 441

638-639 अपरार्क p 779 परा मा III p 315 (आत्मन्येव) वि. र p 128, and वि चि p 38 (both read आत्मन्येव) स्मृतिच० III pp 445 446

640 स्मृतिच० III p 445 परा मा III p 214 वि र p 129 वि चि p 37 स वि p 283 वीर० p 395 All except स्मृतिच० read सर्वस्व गृहवर्जं

परा मा III p 315 स्मृतिच० III p 445 (as स्मृत्यन्तर)

स्मृतिच० III p 449 वि र p 132 व्य म p 203 वीर० p. 397 स वि p 285

स वि p 285 वि र p 132 ascribes a closely similar verse to हारीत

स्मृतिच० III p 449 अपरार्क p 781 वि. र p 184, वीर० p. 397

ज्ञातिसंबन्धिसुहृदामृणं देयं सबन्धकम् ।
अन्येषां लग्नकोपेतं लेख्यसाक्षियुतं तथा ॥६५८॥
स्वेच्छादेयं हिरण्यं तु रसा धान्यं च सावधि ।
देशस्थित्या प्रदातव्यं ग्रहीतव्यं तथैव च ॥६२९॥
समवेतैस्तु यद्दत्तं प्रार्थनीयं तथैव तत् ।
न च याचेत यः कश्चिल्लाभात्स परिहीयते ॥६३०॥
चोरतः सलिलादग्नेर्द्रव्यं यस्तु समाहरेत् ।
तस्यांशो दशमो देयः सर्वद्रव्येष्वयं विधिः ॥६३१॥
शिक्षकाभिज्ञकुशला आचार्यश्चेति शिल्पिनः ।
एकद्वित्रिचतुर्भागान्हरेयुस्ते यथोत्तरम् ॥६३२॥
परराष्ट्राद्धनं यत्स्याच्चौरैः स्वाम्याज्ञयाहृतम् ।
राज्ञो दशांशमुद्धृत्य विभजेरन्यथाविधि ॥६३३ ॥
चोराणां मुख्यभूतस्तु चतुरोंऽशांस्ततो हरेत् ।
शूरोंऽशांस्त्रीन् समर्थो द्वौ शेषास्त्वेकैकमेव च ॥६३४॥
तेषां चेत्प्रसृतानां यो ग्रहणं समवाप्नुयात् ।
तन्मोक्षणार्थं यद्दत्तं वहेयुस्ते यथांशतः ॥६३५॥
नर्तकानामेष एव धर्मः सद्भिरुदाहृतः ।
तालज्ञो लभते त्वर्धं गायनास्तु समांशिनः ।
प्रमुखा ह्यर्धशामर्हन्ति सोयं संभूय कुर्वताम् ॥६३६॥

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272 has 627 but cites no name, व्य. म. p. 200 ascribes 627 to बृहस्पति परा. मा. III. p 306 ascribes 627 and 630 to बृहस्पति

631 स्मृतिच॰ III p. 433, परा. मा III p. 305, वि र. p.114 (सर्व- द्रव्येष्वयं), स वि. p 273

632 अपरार्क p. 838, स्मृतिच॰ III p 435, परा मा. III p 310 (reads शिल्पाकरस्तुकुशला and यथांशतः), वि र p 124, स. वि. p. 273, वीर॰ p. 390.

633-34 परा मा. III p 311, स्मृतिच॰ III p 440, वि र pp 125-126, वीर॰ p 391, स. वि p 276 (only verse 633)

635 स्मृतिच॰ III. p 441, परा मा III p 311, स. वि p 276, व्य. म. p. 200, वीर॰ p 391, वि र. p 126 (reads तस्य कार्या समा क्रिया).

636 परा. मा. III. p. 312, अपरार्क ascribes first two half lines to बृहस्पति and so do वि र. p. 125, वीर॰ p. 391, स. वि p. 276,

वणिजां कर्षकाणां च चोराणां शिल्पिनां तथा।
अनियम्याशकर्तृणां सर्वेषामेव निर्णयः ॥६३७॥

(दत्तानपाकर्म दत्ताप्रदानिकं वा)

विक्रयं चैव दानं च न नेयाः स्युरनिच्छवः ।
दाराः पुत्राश्च सर्वस्वमात्मनैव तु योजयेत् ॥६३८॥
आपत्काले तु कर्तव्यं दानं विक्रय एव वा ।
अन्यथा न प्रवर्तेत इति शास्त्रविनिश्चयः ।६३९।
सर्वस्वगृहवर्जं तु कुटुम्बभरणाधिकम् ।
यद्द्रव्यं तत्स्वकं देयमदेयं स्यादतोऽन्यथा ॥६४०
अतश्च सुतदाराणां वशित्वं त्वनुशासने।
विक्रये चैव दाने च वशित्वं न सुते पितुः ॥६४१।
स्वेच्छया यः प्रतिश्रुत्य ब्राह्मणाय प्रतिग्रहम् ।
न दद्यादृणवद्दाप्यः प्राप्नुयात्पूर्वसाहसम् ॥६४२॥
प्रतिश्रुतस्यादानेन दत्तस्याच्छादनेन च ।
कल्पकोटिशतं मर्त्यस्तिर्यग्योनौ च जायते ॥६४३॥
अविज्ञातोपलब्ध्यर्थं दानं यत्र निरूपितम्।
उपलब्धिक्रियालब्धा सा भृतिः परिकीर्तिता ॥६४४।

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637 परा मा, III p 312 वि र p 126 व्य म p 201, वीर० p 391, स्मृतिच० III p 441

638-639 अपरार्क p 779 परा मा III p 315 (आत्मयेव) वि र p 128 and वि चि p 36 (both read आत्मन्येव) स्मृतिच० III pp 445 446

640 स्मृतिच० III p 445 परा मा III p 214 वि र p 129 वि चि p 37 स वि p 283 वीर० p 395 All except स्मृतिच० read सर्वस्वं गृहवर्जं

641 परा मा III p 315 स्मृतिच० III p 445 (as स्मृत्यन्तरं)

642 स्मृतिच० III p 449 वि र p 132 व्य म p. 203 वीर० p. 397 स वि p 285

643 स वि p 285 वि र p 132 ascribes a closely similar verse to हारीत

644 स्मृतिच० III p 449 अपरार्क p 781 वि र p 134 वीर० p. 397

भयत्राणाय रक्षार्थं तथा कार्यप्रसाधनात् ।
अनेन विधिना लब्धं विद्यात्प्रत्युपकारतः ॥६४५॥
प्राणसंशयमापन्नं यो मामुत्तारयेदितः ।
सर्वस्वं तस्य दास्यामीत्युक्तेपि न तथा भवेत् ॥६४६॥
कामक्रोधास्वतन्त्रार्तक्लीबोन्मत्तप्रमोहितैः ।
व्यत्यासपरिहासाच्च यद्दत्तं तत्पुनर्हरेत् ॥६४७॥
या तु कार्यस्य सिद्ध्यर्थमुत्कोचा स्यात्प्रतिश्रुता ।
तस्मिन्नपि प्रसिद्धेर्थे न देया स्यात्कथंचन ॥६४८॥
अथ प्रागेव दत्ता स्यात्प्रतिदाप्यस्तथा बलात्
दण्डं चैकादशगुणमाहुर्गार्गीयमानवाः ॥६४९॥
स्तेनसाहसिकोद्वृत्तपारजायिकशंसनात् ।
दर्शनाद्वृत्तनष्टस्य तथासत्यप्रवर्तनात् ॥६५०॥
प्राप्तमेतैस्तु यत्किंचित्तदुत्कोचाख्यमुच्यते ।
न दाता तत्र दण्ड्यः स्यान्मध्यस्थश्चैव दोषभाक् ॥६५१॥
नियुक्तो यस्तु कार्येषु स चेदुत्कोचमाप्नुयात् ।
स दाप्यस्तद्धनं कृत्स्नं दमश्चैकादशाधिकम् ॥६५२॥
अनियुक्तस्तु कार्यार्थमुत्कोचं यमवाप्नुयात् ।
कृतप्रत्युपकारार्थस्तस्य दोषो न विद्यते ॥६५३॥

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645 अपरार्क p. 781 (reads प्रत्युपकारकम्), स्मृतिच॰ III. p. 450, वि. र. p. 184, वीर॰ p 398 (reads भयत्राणोपरक्षा॰ and लब्धं भयत्राणादिक पनम्).

646 अपरार्क p. 781, स्मृतिच॰ III. 450, वि. र. p. 184.

647–649 अपरार्क pp. 781-782, स्मृतिच॰ III. p 452, परा. मा. III. p. 319, वि. र. p. 135-136, व्य. म. p. 205 (reads यस्तु and उत्कोचः), वीर॰ p. 399.

650–651 अपरार्क p. 782 (reads पारजायिक॰ and धृतनष्टस्य), स्मृतिच॰ III. p. 452, परा. मा. III. p. 320 (reads पारदारिकसंगमात्), वि. र. 137 (reads पारदारिक॰), स. वि. p. 286 (reads पारदारिक॰ and and धृतनष्टस्य), वीर॰ pp. 399-400, व्य म. p. 205.

652–653 स. वि. p. 286.

स्वस्थेनार्तेन वा दत्तं श्रावितं धर्मकारणात् ।
अदत्त्वा तु मृते दाप्यस्तत्सुतो नात्र संशयः ॥६५४॥
योगाधमनविक्रीतं योगदानप्रतिग्रहम् ।
यत्र वाप्युपधिं पश्येत्तत्सर्वं विनिवर्तयेत् ॥६५५॥
भृतावनिश्चितायां तु दशभागमवाप्नुयात् ।
लाभगोवीर्यसस्यानां वणिग्गोपकृषीवलाः ॥ ६५६ ॥

(वेतनस्यानपाकर्म)

कर्मारम्भं तु यः कृत्वा सिद्धं नैव तु कारयेत् ।
बलात्कारयितव्योऽसावकुर्वन्दण्डमर्हति ॥६५७॥
विघ्नयन्वाहको दाप्यः प्रस्थाने द्विगुणां भृतिम् ॥६५८॥
न तु दाप्यो हृतं चोरैर्दग्धमूढं जलेन वा ॥६५९॥
त्यजेत्पथि सहायं यः श्रान्तं रोगार्तमेव वा ।
प्राप्नुयात्साहसं पूर्वं ग्रामे त्र्यहमपालयन् ॥६६०॥
यदा तु पथि तद्भाण्डमाक्षिप्येत ह्रियेत वा ।
यावानध्वा गतस्तेन प्राप्नुयात्तावतीं भृतिम् ॥६६१॥

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654 अपरार्क p 782, स्मृतिच० III. p. 453, मिता on या. II. 176, परा. मा. III p. 820, स. वि. p. 287,

655 अपरार्क p. 783, स वि. p. 287 ascribes to नारद; स्मृतिच० III. p 454, वीर० p. 400 and परा. मा. III. p. 820 ascribe to मनु (it is मनु 8. 165)

656 स. वि. p. 298.

657 स्मृतिच० III. p. 478, परा. मा III. p 825 (reads सर्वं for सिद्धं), वि. र. p. 160 (सर्वं), स वि p 299, वीर० p. 416 (reads सिद्धिं).

658 स्मृतिच० III p. 475 (reads द्विगुण स्मृतं), परा. मा. III. p. 827, वीर० p. 418

659 स. वि. p. 300, अपरार्क p 799, स्मृतिच० III. p. 475 and वीर० p. 418 (ascribes to वृद्धमनु)

660 स्मृतिच० III. p 477, अपरार्क p 800, परा. मा III p. 832, वि. र. p. 165, वीर० p 421

661 स्मृतिच० III. p 478, परा मा III. p. 329, वि र. p. 164, वि. चि. p. 50, वीर० p 419.

हस्त्यश्वगोखरोष्ट्रादीन्गृहीत्वा भाटकेन यः ।
नार्पयेत्कृतकृत्यार्थं स तु दाप्य सभाटकम् ॥६६२॥
गृहवार्यापणादीनि गृहीत्वा भाटकेन य ।
स्वामिने नार्पयेद्यावत्तावद्दाप्य सभाटकम् ।६६३।

(स्वामिपालविवाद)

क्षेत्रारामविवीतेषु गृहेषु पशुपालिषु ।
ग्रहण तत्प्रविष्टानां ताडन वा बृहस्पति ॥६६४॥
अधमोत्तममध्यानां पशूना चैव ताडन ।
स्वामी तु विवदेयुस्तत्र दण्ड तत्र प्रकल्पयेत् ॥६६५॥
अजातेष्वेव सस्येषु कुर्यादावरण महत् ।
दुःखेनेह निवार्यन्ते लब्धस्वादुरसा मृगा ॥६६६॥
दापयेत्पणपाद गा द्वौ पादा माहिषीं तथा ।
तथाजाविकवत्सानां पादो दण्ड प्रकीर्तित ॥६६७॥

(समयस्यानपाकर्म संविद्व्यतिक्रमो वा)

समूहिता तु यो धर्मस्तेन धर्मेण ते सदा ।
प्रकुर्यु सर्वकर्माणि स्वधर्मेषु व्यवस्थिता ॥ ६६८ ॥
अविरोधेन धर्मस्य निर्गत राजशासनम् ।
तस्यैवाचरण पूर्वं कर्तव्य तु नृपाज्ञया ॥ ६६९ ॥
राजप्रवर्तितान्धर्मान्यो नरो नानुपालयेत् ।
गर्ह्य स पापो दण्ड्यश्च लोपयन्राजशासनम् ॥६७०॥

662–663 स्मृतिच० III p 479 परा मा III pp 330 31, वि र pp 168 169 अपरार्क p. 801 (663 only) वीर० p 420

664 स्मृतिच० III p 487, वि र p 241 वि चि p 69

665 स्मृतिच० p 488, अपरार्क p 672, वि र p 241 वि चि p 69

666 स्मृतिच० III p 488 अपरार्क p 770 परा मा III p 378 वीर० p 446

667 स्मृतिच० III p 494 (first half) वि र p 235, वि चि p 67

668 स्मृतिच० III, p 525 वि र p 180 and वीर० p 426 (read समूहानां) परा मा III p 303 (also समूहानां)

669–670 स्मृतिच० III pp 525 526 वि र p 181 वीर० p 426

युक्तियुक्तं च यो हन्याद्धकुर्योऽनवकाशदः ।
अयुक्तं चैव यो ब्रूते स दाप्यः पूर्वसाहसम् ॥ ६७१ ॥
साहसी भेदकारी च गणद्रव्यविनाशकः ।
उच्छेद्याः सर्व एवैते विख्याप्यैवं नृपे भृगुः ॥ ६७२ ॥
एकपात्रे च वा पङ्क्त्यां संभोक्ता यस्य यो भवेत् ।
अकुर्वंस्तत्तथा दण्ड्यस्तस्य दोषमदर्शयन् ॥ ६७३ ॥
गणमुद्दिश्य यत्किंचिद्दृणं भक्षितं भवेत् ।
आत्मार्थं विनियुक्तं वा देयं तैरेव तद्भवेत् ॥ ६७४ ॥
गणानां श्रेणिवर्गाणां गताः स्युर्ये तु मध्यताम् ।
प्राक्तनस्य धनर्णस्य समांशा सर्व एव ते ॥ ६७५ ॥
तथैव भोज्यवैभाज्यदानधर्मक्रियासु च ।
समूहस्थोंऽशभागी स्यात्प्रगतस्त्वंशभाङ्न तु ॥६७६॥
यत्तैः प्राप्तं रक्षितं वा गणार्थे वा ऋणं कृतम् ।
राजप्रसादलब्धं च सर्वेषामेव तत्समम् ॥ ६७७ ॥

(नैगमादिशब्दलक्षणम्)

नानापौरसमूहस्तु नैगमः परिकीर्तितः ।
नानायुधधरा व्राता समवेताः प्रकीर्तिताः ॥ ६७८ ॥

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671 अपरार्क p 795, स्मृतिच॰ III p 527, परा मा III p 354 (हन्यादः कार्यानवकाशद॰), वीर॰ p 428, वि र p. 179

672 अपरार्क p 693, स्मृतिच॰ III p. 530 (reads नृपेऽर्पयेत् and notices the reading नृपे भृगु॰), वि र p 183, वीर॰ p. 428.

673 अपरार्क p 794, वि र p 185, वि चि. p. 54, स. वि p 330 (reads पङ्क्त्या वा न भोक्ता येन यो भवेत् । अकुर्वन् स तथा).

674 अपरार्क p 795 (reads ये कैश्चित्), स्मृतिच॰ III p. 533, परा. मा. III p 359, स वि. p 131 वि र p 187, वि चि. 55.

675-676 अपरार्क p 795 (reads भोज्य वैभाज्यं धन), स्मृतिच॰ III p 533 (reads गणिनां शिल्पिवर्गाणां and वैभव्य), परा मा III, pp. 359-360 (reads प्राक्तनस्याधमर्णस्य, भोजनैर्भाव्यं and प्रगतस्त्वंशभागभाक्), वि. र. pp 187-188, वीर॰ p. 432 (reads वैभव्य and प्रागत॰)

677 स. वि p. 330.

678-682 वि र pp. 668 669, स्मृतिच॰ III p. 524 and वीर॰ p. 426 and परा मा III p. 352 have latter half of 678 and first

समूहो वणिजादीनां पूग॰ संपरिकीर्तितः ।
प्रवज्यावसिता ये तु पाषण्डा॰ परिकीर्तिताः ॥ ६७९ ॥
ब्राह्मणानां समूहस्तु गणः संपरिकीर्तितः ।
शिल्पोपजीविनो ये तु शिल्पिन॰ परिकीर्तिताः ॥६८०॥
आर्हतसौगतानां तु समूह सङ्घ उच्यते ।
चाण्डालश्वपचादीनां समूहो गुल्म उच्यते ॥ ६८१ ॥
गणपाषण्डपूगाश्च व्राताश्च श्रेणयस्तथा ।
समूहस्थाश्च ये चान्ये वर्गाख्यास्ते बृहस्पतिः ॥ ६८२॥

(क्रयविक्रयानुशयः क्रीत्वानुशयो विक्रीय संप्रदानं वा)

क्रीत्वा प्राप्तं न गृह्णीयाद्यो न दद्याददूषितम् ।
स मूल्याद्दशमं भागं दत्त्वा स्वद्रव्यमाप्नुयात् ॥ ६८३ ॥
अप्राप्तेऽर्थक्रियाकाले क्षते नैव प्रदापयेत् ।
एवं धर्मो दशाहात्तु परतोऽनुशयो न तु ॥ ६८४ ॥
भूमेर्दशाहे विक्रेतुरायस्तत्क्रेतुरेव च ।
द्वादशाहः सपिण्डानामपि चाप्यमत परम् ॥ ६८५ ॥
क्रीत्वानुशयवान्पण्यं त्यजेद्दोषादि यो नरः ।
अदुष्टमेव काले तु स मूल्याद्दशमं वहेत् ॥ ६८६ ॥
क्रीत्वा गच्छन्ननुशयं क्रयी हस्तमुपागते ।
षड्भागं तत्र मूल्यस्य दत्त्वा क्रीतं त्यजेद्बुध ॥६८७॥
अविज्ञातं तु यत्क्रीतं दुष्टं पश्चाद्विभावितम् ।
क्रीतं तत्स्वामिने देयं काले चेदन्यथा न तु ॥ ६८८ ॥

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half of 680 (they read कुलानां हि समूहस्तु). स्मृतिच॰ III p. 40 has 682, latter half of 678 and first half of 680.

683-684 स्मृतिच॰ III. p 511, वि र pp 191-192, परा मा. III. p 367, स. वि p 310 (reads दशाहं तु), वि चि 56 (अप्राप्तेर्थे क्रियाकारे), वीर॰ p. 439 (अप्राप्तेऽथ क्रियाकाले), वि. र also reads अप्राप्तेर्थे क्रियाकारे.

685 परा. मा. III. p. 364

686 स्मृतिच॰ III. p 512, वि. र p 197, स वि p 311 (क्रीत्वाप्यनुशयात्), वीर॰ p 435 (reads क्रीत्वा चानुशयं पश्चात्यजेद्दोषाद्दते)

687 स्मृतिच॰ III. p 512, वि. र. p 197 (reads त्यजेद्बुधः), वीर॰ p. 435.

688 स्मृतिच॰ III. p 518, परा मा. III p 361, वि. र p 199 (reads देयं पण्यं कालेऽन्यथा न तु), व्य म p 217, वीर॰ p 438

निर्दोषं दर्शयित्वा तु यः सदोषं प्रयच्छति ।
मूल्यं तद् द्विगुणं दाप्यो विनयं तावदेव च ॥६८९॥
उपहन्येत वा पण्यं दह्येतापह्रियेत वा ।
विक्रेतुरेव सोऽनर्थो विक्रीयासम्प्रयच्छतः ।६९०॥
दीयमानं न गृह्णाति क्रीतं पण्यं च यः क्रयी ।
विक्रीतं च तदन्यत्र विक्रेता नापराध्नुयात् ॥६९१॥
मत्तोन्मत्तेन विक्रीतं हीनमूल्यं भयेन वा ।
अस्वतन्त्रेण मुग्धेन त्याज्यं तस्य पुनर्भवेत् ॥६९२॥
त्र्यहं दोह्यं परीक्षेत पञ्चाहाद्वाह्यमेव तु ।
मुक्तावज्रप्रवालानां सप्ताहं स्यात्परीक्षणम् ॥६९३॥
द्विपदामर्धमासं तु पुंसां तद्द्विगुणं स्त्रियाः ।
दशाहं सर्वबीजानामेकाहं लोहवाससाम् ॥६९४॥
अतोऽर्वाक्पण्यदोषस्तु यदि संजायते क्वचित्
विक्रेतुः प्रतिदेयं तत् क्रेता मूल्यमवाप्नुयात् ॥६९५॥
परिभुक्तं तु यद्वासः क्लिष्टरूपं मलीमसम् ।
सदोषमपि तत्क्रीतं विक्रेतुर्न भवेत्पुनः ॥६९६॥
साधारणं तु यत्क्रीतं नैको दद्यात्सराधमः ।
नादद्याच्च गृह्णीयाद्विक्रीयाच्च न चैव हि ॥६९७॥
क्रीत्वा मूल्येन यत्पण्यं दुष्क्रीतं मन्यते क्रयी ।
विक्रेतुः प्रतिदेयं तत्तस्मिन्नेवाह्न्यवीक्षितम् ॥६९८॥

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689 690 स वि p 311

691 स वि p 311 वि चि p 57 (no name cited)

692 स वि p 312 वीर० 441 and वि चि p 57 ascribe to बृहस्पति

693 695 स वि p 316 वि र p 199 ascribes first two to नारद and third to बृहस्पति वि चि p 57 ascribes first two to व्यास and नारद and the third (p 58) to बृहस्पति परा मा III p 361 ascribes all three to व्य म and वीर० p 433 ascribes all to नारद The first two verses are Nārada 12 5-6

696 स वि p 317 परा मा p 364 and व्य म p 217 ascribe it to नारद (it is नारद 12 7)

697-699 स वि p 317 परा म III p 363 ascribes 698 to नारद

द्वितीयेऽह्नि ददत् क्रेता मूल्यात् त्र्यंशांशमाहरेत् ।
द्विगुणं तु तृतीयेऽह्नि परतः क्रेतुरेव तत् ॥६९९॥
द्रव्यस्वं पञ्चधा कृत्वा विभागो मूल्यमुच्यते ।
लाभश्चतुर्थो भागः स्यात् पञ्चमः सत्यमुच्यते ॥७०० ॥
सान्धिश्च परिग्राहिश्च विषमा वा विभागतः ।
आक्षयापि क्रयश्चापि दशाब्दं विनिवर्तयेत् ॥७०१॥
ज्ञात्यादीनननुज्ञाप्य समीपस्थाननिन्दितान् ।
क्रयविक्रयधर्मोऽपि भूमेर्नास्तीति निर्णयः ॥७०२॥
स्वग्रामे दशरात्रं स्यादन्यग्रामे त्रिपक्षकम् ।
राष्ट्रान्तरेषु षण्मासं भाषाभेदे तु वत्सरम् ॥ ७०३ ॥
पलायिते तु करदे करप्रतिभुवा सह ।
करार्थं करदक्षेत्रं विक्रीणीयुः समासदः ॥७०४॥
समवेतैस्तु सामन्तैरभिज्ञैः पापभीरुभिः ।
क्षेत्रारामगृहादीनां द्विपदां च चतुष्पदाम् ॥७०५॥
कल्पितं मूल्यमित्याहुर्भागं कृत्वा तदष्टधा ।
एकभागातिरिक्तं वा हीनं वानुचितं स्मृतम् ॥७०६॥
समाः शतमतीतेऽपि सर्वं तद्विनिवर्तते ।
क्रयविक्रयणे क्रय्यं यन्मूल्यं धर्मतोऽर्हति ॥७०७॥
तत्तुर्ये पञ्चमे षष्ठे सप्तमेऽष्टमेऽपि वा ।
हीनो(ने)यदि विनिर्वृत्ते क्रयविक्रयणे सति ॥७०८॥
हीनमूल्यं तु तत्सर्वं कृतमप्यकृतं भवेत् ॥
उत्कादल्पतरे हीने क्रये(यो?) नैव प्रदुष्यति ॥७०९॥
तेनाप्यंशेन हीयेत मूल्यतः क्रयविक्रये ।
कृतमप्यकृतं प्राहुरन्ये धर्मविदो जनाः ॥७१०॥

(1b ib नारद 12 2)
700 स. वि p. 318
701 स वि. p 320
702–703 स. वि p 322
704 स. वि p 324
705–706 स वि p 325
707–710 स. वि. pp. 325-26

अर्घाधिके क्रये सिध्येदुत्कर्षो द्व्याधिक(द्विक) ।
अपक्रयविभागेन [भोगेन] सद्य एव न विक्रये ॥७११॥
मूल्यात्स्वल्पप्रदानेऽपि क्रयसिद्धिः कृता भवेत् ।
चक्रवृद्ध्या प्रदातव्यं शेषं तत्समयादृते ॥७१२॥

(अभ्युपेत्याशुश्रूषा)

यस्तु न ग्राहयेच्छिल्पं कर्माण्यन्यानि कारयेत् ।
प्राप्नुयात्साहसं पूर्वं तस्माच्छिष्यो निवर्तते ॥७१३॥
शिक्षितोऽपि कृतं काममन्तेवासी समाचरेत् ।
तत्र कर्म च यत्कुर्यादाचार्यस्यैव तत्फलम् ॥७१४॥
स्वतन्त्रस्यात्मनो दानाद्दासत्वं दारवद्भृगुः
त्रिषु वर्णेषु विज्ञेयं दास्यं विप्रस्य न क्वचित् ॥७१५॥
वर्णानामानुलोम्येन दास्यं न प्रतिलोमतः ।
राजन्यवैश्यशूद्राणां त्यजतां हि स्वतन्त्रताम् ॥७१६॥
समवर्णेऽपि विप्रे तु दासत्वं नैव कारयेत् ।
ब्राह्मणस्य हि दासत्वान्नृपतेजो विहन्यते ॥७१७॥
क्षत्रविट्शूद्रधर्मस्तु समवर्णो कथञ्चन ।
कारयेद्दासकर्माणि ब्राह्मणं न बृहस्पतिः ॥७१८॥

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711 स वि p 326
712 स वि p. 327
713 अपरार्क p 790 स्मृतिच॰ III p 457, परा मा III p 338, वि र p. 141, वीर॰ p 403, स वि p 290
714 स वि p 290, स्मृतिच॰ III. p. 457 (शिक्षितोऽपि कृत कालमन्ते॰); वीर॰ p 408 ascribes to नारद and reads as स्मृतिच॰ does
715 अपरार्क p 788, स्मृतिच॰ III. p 460, वि र p 152 व्य. म PP 206 207, वीर॰ p. 405
716 अपरार्क p 788 स्मृतिच॰ III p 461 (वर्णकमात्तु॰) परा मा. III p 341 वि र p 152 स वि p 296 (reads the lines त्रिषु वर्णेषु and वर्णानामनु॰ as one verse)
717–718 अपरार्क p 789 (puts verse 718 between the two halves of 717) स्मृतिच॰ III pp 461 62 (reads समवर्णेऽपि), परा मा III p 342 (reads अवर्णे तु विप्रस्य and तुल्यपदसमस्य) वि र p 152 (order like that in अपरार्क) व्य म p 207 and वीर॰ p 407 (omit the line ब्राह्मणस्य हि &c.)

शीलाध्ययनसंपन्ने बहून् कर्म कामतः ।
तत्रापि नाशुभं किंचित्प्रकुर्वीत द्विजोत्तमः ॥७१९॥
विण्मूत्रोन्मार्जनं चैव नग्नत्वपरिमर्दनम् ।
प्रायो दासीसुता कुर्युर्गवादिग्रहणं च यत् ॥७२०॥
प्रव्रज्यावसिता यत्र त्रयो वर्णा द्विजादयः ।
निर्वासं कारयेद्विप्रं दासत्वं क्षत्रविट् नृपः ॥७२१॥
शूद्रं तु कारयेद्दासं क्रीतमक्रीतमेव वा ।
दास्यायैव हि सृष्ट स स्वयमेव स्वयम्भुवा ॥७२२॥
स्वदासीं यस्तु संगच्छेत्प्रसूता च भवेत्ततः ।
अवेक्ष्य बीजं कार्या स्याद्दासी सान्वया तु सा ॥७२३॥
दासस्य तु धनं यत्स्यात्स्वामी तस्य प्रभुः स्मृतः ।
प्रकाशं विक्रयाद्यत्तु न स्वामी धनमर्हति ॥७२४॥
दासेनोढा त्वदासी या सापि दासीत्वमाप्नुयात् ।
यस्माद्भर्ता प्रभुस्तस्याः स्वाम्यधीनः प्रभुर्यतः ॥७२५॥
आदद्याद् ब्राह्मणीं यस्तु विनीणीत तथैव च ।
राज्ञा तदकृतं कार्यं दण्ड्याः स्युः सर्व एव ते ॥७२६॥

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719 स्मृतिच॰ III 461, वि र p 152 वि चि p 47

720 वि. र p 144

721 अपरार्क p 787, स्मृतिच॰ III. p 466 (reads क्षत्रविट्शूद्र°), परा मा III p. 345 (दासत्व क्षत्रिय विश) स वि p 293, वि चि pp 43-44 व्य म 207 (क्षत्रिय शूद्र) वीर॰ p 406 (°विट् शूद्र)

722 स वि p 296 This is मनु 8 413 (which reads ब्राह्मणस्य स्वयम्भुवा)

723 स्मृतिच॰ III. p 468 (स्याच्च दासी) वि र p 148, व्य म p. 210, वीर॰ p 412.

724 स्मृतिच॰ III p 469 (first half), वि र p. 150 वि चि p 46 (reads प्रसादविक्रयात्तु) व्य म p 211 and वीर॰ 413 (first half only)

725 स्मृतिच॰ III p 469 स वि p 194 (यस्तद्भर्ता and प्रभुस्तयो), वि चि 46, व्य म p 211, वीर॰ p 412.

726-729 अपरार्क p 789 (reads ब्रह्मदासीं for अदासी च and भक्तदासीं)

कामात्तु संश्रिता यस्तु दासीं कुर्यात्कुलस्त्रियम् ।
सङ्क्रामयेत यान्यत्र दण्ड्यस्तत्राकृत भवेत् ॥ ७२७॥
बालधात्रीमदासीं च दासीमिव भुनक्ति यः ।
परिचारकपत्नीं वा प्राप्नुयात्पूर्वसाहसम् ॥७२८॥
विक्रोशमाना यो भक्ता दासीं विक्रेतुमिच्छति ।
अनापदिस्थ शक्त सन्मा,याद् द्विशत,दमम् ॥७२९॥
तथाहमिति चात्मान योऽस्वतन्त्र प्रयच्छति ।
न स त प्राप्नुयात्काम पूर्वस्वामी लभेत तम् ॥७३०॥
प्रव्रज्यावसितो दासो मोक्तव्यश्च न केनचित् ।
अनाकालभृतो दास्यान्मुच्यते गोयुग ददत् ॥७३१॥

(सीमाविवाद)

आधिक्य न्यूनता चांशे अस्तिनास्तित्वमेव च ।
अभोगभुक्ति सीमा च षट् भूवादस्य हेतवः ॥७३२॥
तस्मिन्भोग प्रयोक्तव्य सर्वसाक्षिषु तिष्ठति ।
लेख्यारूढश्चोत्तरश्च साक्षी मार्गद्वयान्वितः ॥७३३॥
क्षेत्रवास्तुतडागेषु कूपोपवनसेतुषु ।
द्वयोर्विवादे सामन्त प्रत्यय सर्ववस्तुषु ॥७३४॥
सामन्तभावेऽसामन्तैः कुर्यात्क्षेत्रादिनिर्णयम् ।

वि र p 164 165 (reads भुक्ता for भक्ता) वि चि 47, व्य म p 203, वीर॰ p 413.

780 स वि p 294, वि चि p 44 (no name) वीर॰ p 411 (ascribes to नारद)

781 स वि p 293 The two halves seem to be parts of different verses

782 मिता॰ on या II 150 स्मृतिच॰ III p 544 वि र p 201 (अभोगे भुक्तिः), वीर॰ p. 451, अपरार्क p 759

783 अपरार्क p 759 वि र p 205 (स च साक्षिषु).

784 वि र p. 207

785 अपरार्क p 760 वीर॰ p 456 (समन्तभावे सामन्तैः), व्य. म. III. p.897 (reads सीमान्तवासिभिर्वा तैः).

ग्रामसीमासु च तथा तद्वन्नगरदेशयो ॥७३५॥
ग्रामो ग्रामस्य सामन्तः क्षेत्रं क्षेत्रस्य कीर्तितम् ।
गृहं गृहस्य निर्दिष्टं समन्तात्परिरभ्य हि ॥७३६॥
तेषामभावे सामन्तमौलवृद्धोऽभृतादय ।
स्थावरे षट्प्रकारेऽपि नात्र कार्या विचारणा ॥७३७॥
ससक्तास्त्वथ सामन्तास्तत्संसक्तास्तथोत्तरा ।
ससक्तसक्तससक्ता पद्माकारा प्रकीर्तिता ॥७३८॥
स्वार्थसिद्धौ प्रदुष्टेषु सामन्तेष्वर्थगौरवात् ।
तत्ससक्तैस्तु कर्तव्य उद्धारो नात्र सशय ॥७३९॥
ससक्तसकदोषे तु तत्ससक्ता प्रकीर्तिता ।
कर्तव्या न प्रदुष्टास्तु राज्ञा धर्मं विजानता ।७४०॥
नाशानेन हि मुच्यन्ते सामन्ता निर्णयं प्रति ।
नाशानोक्तौ दण्डयित्वा पुन सीमा विचारयेत् ।
कीर्तिते यदि भेदः स्याद्दण्ड्यास्तूत्तमसाहसम् ॥७४१॥
त्यक्त्वा दुष्टस्तु सामन्तानन्यान्मौलादिभि सह ।
समीक्ष्य कारयेत्सीमामेव धर्मविदो विदुः ॥७४२॥

736 स्मृतिच० III p 545 वि र p 207, अपरार्क p 759 वीर० p. 454

737 मिता० on या II 152, स्मृतिच० III. p. 545, वि र. p 206, वि चि p 61, वीर० p 456

738 मिता० on या II, 152 अपरार्क p 760, स्मृतिच० III, pp 537 538, परा मा III, p. 389, वि र p 213 (reads ससक्तास्ता).

739-740 मिता० on या II 152 अपरार्क p 760 (reads तत्ससक्तैस्तु कर्तव्य) स्मृतिच० III p 538 (omits latter half of 740) वीर० pp 454 55, वि र p 207

741 मिता० on या II 153 अपरार्क p 763 वीर० 460 (the two latter halves only) परा मा III pp 397 398 (two latter halves) वि र p. 212

742 मिता० on या II 153 अपरार्क p. 760 परा मा III p. 398, (समीक्ष्य for समिक्ष्य) स्मृतिच० III, p 538 (reads समस्यं) वि र. 208 (reads समस्य), वीर० p. 455

ये तत्र पूर्वं सामन्ताः पश्चाद्देशान्तरं गताः ।
तन्मूलत्वात्तु ते मौला ऋषिभिः सम्प्रकीर्तिताः ॥७४३॥
निष्पाद्यमानं यैर्दृष्टं तत्कार्यं सुगुणान्वितैः ।
वृद्धा वा यदि वाऽवृद्धास्ते वृद्धाः परिकीर्तिताः ॥७४४॥
उपश्रवणसंभोगकार्याख्यानोपचिह्निताः ।
उद्धरन्ति ततो यस्मादुद्धृतास्ते ततः स्मृताः ॥७४५॥
सामन्ताः साधनं पूर्वमनिर्णीते गुणान्विताः ।
द्विगुणास्तूत्तरा ज्ञेया ततोऽन्ये त्रिगुणा मताः ॥७४६॥
एको यद्व्रजयेत्सीमामुभयोरीप्सितः क्वचित् ।
मस्तके क्षितिमारोप्य रक्तवासाः समाहितः ॥७४७॥
भयवर्जितभूपेन सर्वाभावे स्वयंकृता ॥७४८॥
क्षेत्रकूपतडागानां केदारारामयोरपि ।
गृहप्रासादावसथनृपदेवगृहेषु च ॥७४९॥
बहूनां तु गृहीतानां न सर्वे निर्णयं यदि ।
कुर्युर्भयाद्वा लोभाद्वा दाप्यास्तूत्तमसाहसम् ॥७५०॥
सीमाचङ्क्रमणे कोशे पादस्पर्शे तथैव च ।
त्रिपक्षपक्षसप्ताहं दैवराजिकमिष्यते ॥७५१॥

743–745 मिता॰ on या II 151 (तद्गुणान्वितैः) अपरार्क p 759–760 स्मृतिच॰ III p 539, परा मा III p 390, स वि p 334, वीर॰ p 455

746 मिता॰ on या II 152 (निर्दोषाः स्वगुणाः॰), अपरार्क p 760, स्मृतिच॰ III p 540 वि र p 208 वीर॰ p 456 (ascribes to मनु)

747 अपरार्क p 762

748 वि र p 216

749 मिता॰ on या II 154 वि र p 218, वीर॰ p 457

750 मिता॰ on या II 152 अपरार्क p 763 परा मा III p 397 स्मृतिच॰ III p 546, व्य म p 222 वीर॰ p 460

751 मिता॰ on या II 152 अपरार्क p 763, स्मृतिच॰ III p 543 व्य म p 222 वीर॰ p 458.

मेखलाभ्रमनिष्कासगवाक्षांश्चोपरोधयेत् ।
प्रणालीं गृहवास्तुं च पीडयन्दण्डमाग्भवेत् ॥७५२॥
निवेशासमयादूर्ध्वं नैते योज्याः कदाचन ।
दृष्टिपातं प्रणालीं च न कुर्यात्परवेश्मसु ॥७५३॥
विण्मूत्रोदकवहं च वह्निश्वभ्रनिवेशनम् ।
अरत्निद्वयमुत्सृज्य परकुड्यान्निवेशयेत् ॥७५४॥
सर्वे जना सदा येन प्रयान्ति स चतुष्पथ ।
अनिरुद्धो यथाकालं राजमार्गः स उच्यते ॥७५५॥
न तत्र रोपयेत्किञ्चिन्नोपहन्यात्तु केनचित् ।
गुर्वाचार्यनृपादीनां मार्गादानात्तु दण्डभाक् ॥७५६॥
यस्तत्र संकरश्वभ्रान्वृक्षारोपणमेव च ।
कामात्पुरीषं कुर्याच्च तस्य दण्डस्तु माषक ॥७५७॥
तडागोद्यानतीर्थानि योऽमेध्येन विनाशयेत् ।
अमेध्यं शोधयित्वा तु दण्डयेत्पूर्वसाहसम् ॥७५८॥
दूषयेत्सद्गतीर्थानि स्थापितानि महात्मभिः ।
पुण्यानि पावनीयानि प्राप्नुयात्पूर्वसाहसम् ॥७५९॥

752–753 अपरार्क pp 764–765, वि र p 219 (omits the line निवेश॰), व्य म p 223, वीर॰ p 463 स्मृतिच॰ III p 551 has 753 and reads दृष्टिप्राप्त

754 अपरार्क p 765 (चक्र च) स्मृतिच॰ III p 551, परा मा III p 400 (reads श्वक्र च) वि र p 220 (चक्र च), व्य म p 224, वीर॰ p 464

755 स्मृतिच॰ III p 552, वि र p 221 (reads जनपदा and यथाकाम), व्य म p 224, वीर॰ p 464 (अनिषिद्धा)

756–757 वि र 221, अपरार्क p 765 and परा मा p 401 ascribe 757 to बृहस्पति

758–759 स्मृतिच॰ III p. 553, अपरार्क p 765, वि र p 222 (reads आयानि शापनीयानि), परा मा III p 402, व्य म p 225, वीर॰ p. 465,

सीमामध्ये तु जातानां वृक्षाणां क्षेत्रयोर्द्वयोः ।
फलं पुष्पं च सामान्यं क्षेत्रस्वामिषु निर्दिशेत् ॥७६०॥
अन्यक्षेत्रे तु जातानां शाखा यत्रान्यसंश्रिता ॥
स्वामिनं तं विजानीयाद्यस्य क्षेत्रेषु संश्रिताः ॥७६१॥
अस्वाम्यनुमतेनैव संस्कारं कुरुते तु यः ।
गृहोद्यानतडाकानां संस्कर्ता लभते न तु ॥७६२॥
व्ययं स्वामिनि चायाते न निवेद्य नृपे यदि ।
अथावेद्य प्रयुक्तस्तु तद्दत्तं लभते व्ययम् ॥७६३॥
अशक्तितो न दद्याच्चेत् खिलार्थो परकृतो व्ययः ।
तदष्टभागहीनं तु कर्षकः फलमाप्नुयात् ॥
वर्षाण्यष्टौ स भोक्ता स्यात्परतः स्वामिने तु तत् ॥७६४॥
अशक्तप्रेतनष्टेषु क्षेत्रिकेष्वनिवारितः ।
क्षेत्रं चेद्विकृषेत्कश्चिदश्नुवीत स तत्फलम् ॥७६५॥
विकृष्यमाणे क्षेत्रे च क्षेत्रिकः पुनरागतेत् ।
खिलोपचारं(खिलोपचारं?) तत्सर्वं दत्त्वा क्षेत्रमवाप्नुयात्॥७६६॥
तदष्टभागापचयाद् यावत्सप्त गताः समाः ।
समासेऽष्टमे वर्षे भुक्तक्षेत्रं लभेत सः ॥७६७॥

(वाक्पारुष्यम्)

हुङ्कारः कासनं चैव लोके यच्च विगर्हितम् ।
अनुकुर्यादनुब्रूयाद् वाक्पारुष्यं तदुच्यते ॥७६८॥

760-761 अपरार्क p 766 (reads संस्थिताः for संश्रिताः in both lines), स्मृतिच० III p 555, परा मा. III. p. 404, वि र. p. 223, व्य म. p 225, वीर० p 417 (reads यस्य क्षेत्रस्य)

762-763 अपरार्क p. 767 (reads देयं स्वामिनि and लभते फलम्), स्मृतिच० III. p 558, वि र p. 225 (reads देयं स्वामिनि), परा. मा. III. p 407, स वि p 340 (has only 762)

764 अपरार्क p 763 (reads खिलार्थं च कृत व्यय and कर्षकात्फल०), स्मृतिच० III. 560, परा मा. III. p 409, वि चि p 65, वीर० p. 470, स. वि p. 340

765-767 स. वि. p. 340 परा. मा. (III. pp. 408-409) and स्मृतिच० III. p. 560 ascribe 765-766 to नारद.

768 अपरार्क p. 805, स्मृतिच० III. p. 18.

निष्ठुराश्लीलतीव्रत्वात्तदपि त्रिविधं स्मृतम्
आक्षेपो निष्ठुरं ज्ञेयमश्लीलं न्यङ्गसंज्ञितम् ।
पतनीयैरुपाक्रोशैस्तीव्रमाहुर्मनीषिणः ॥७६९॥
यस्त्वसत्संज्ञितैरङ्गैः परमाक्षिपति क्वचित् ।
अभूतैर्वाथ भूतैर्वा निष्ठुरा वाक्स्मृता बुधैः ॥७७०॥
न्यग्भावकरणं वाचा क्रोधात्तु कुरुते यदा ।
वृत्तदेशकुलादीनामश्लीला सा बुधैः स्मृता ॥७७१॥
महापातकयोक्त्री च रागद्वेषकरी च या ।
जातिभ्रंशकरी याथ तीव्रा सा प्रथिता तु वाक् ॥७७२॥
योऽगुणान्कीर्तयेत्क्रोधान्निर्गुणे वा गुणवताम् ।
अन्यसंधानुयोगी वा वाग्दुष्टं तं नरं विदुः ॥७७३॥
अदुष्टस्यैव यो दोषान्कीर्तयेद्दोषकारणात् ।
अन्यापदेशवादी च वाग्दुष्टं तं नरं विदुः ॥७७४॥
मोहात् प्रमादात्सङ्घर्षात् प्रीत्या चोक्तं मयेति यत् ।
नाहमेवं पुनर्वक्ष्ये दण्डार्धं तस्य कल्पयेत् ॥७७५॥
यत्र स्यात्परिहारार्थं पतितस्तेन (पतितत्वेन ?) कीर्तनम् ।
वचनात्तत्र न स्यात्तु दोषो यत्र विभावयेत् ॥७७६॥
अन्यथा तुल्यदोषः स्यान्मिथ्योक्तौ नूत्तमः स्मृतः ॥ ७७७ ॥

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769 अपरार्क p. 805.

770–772 अपरार्क pp. 805–806 (reads न्यग्भावगुरुणं and रागद्वेष॰ for राग-द्वेष॰), स्मृतिच॰ III. pp. 12-13 (reads अङ्गैः and वृत्तदेश॰), परा. मा. III, p. 429 (reads परस्याक्षिपति, अभूतैर्वाथ भूतैर्वा and वृत्तदेश॰) वि. र. p. 243 (reads न्यग्भावगुरुणं वाचा), वीर॰ p. 482.

773 वि. र. p. 244 and वीर॰ p. 484 (reads अन्यसंज्ञानियोगी).

774 वि. र. p. 245 ; स्मृतिच॰ III. p. 760 ascribes to नारद (and reads दुष्टस्यैव तु).

775 वि. र. p. 246 and वि. चि. p. 70 (ascribe to उशनस् and कात्यायन) स्मृतिच॰ III; p. 759 and व्य. म. p. 229 ascribe to उशनस्.

776 स्मृतिच॰ III. p. 760, वि. र. p. 258, वीर॰ p. 484.

777 वि. p. 258.

महता प्रणिधानेन यागुष्टं साधयेत्परम् ।
अतथ्यं भावितं राज्ञा प्रयत्नेन विचारयेत् ॥
अनृताख्यानशीलानां जिह्वाच्छेदो विशोधनम् ॥७७८॥

(दण्डपारुष्यम्)

इत्यादिभिर्न पश्येच्चेद्दण्डपारुष्यकारणम् ।
तत्र साक्षिकृतं चैव दिव्यं वा विनियोजयेत् ॥७७९॥
आमीपणेन दण्डेन प्रहरेद्यस्तु मानवः ।
पूर्वं चापीडितो वाथ स दण्ड्यः परिकीर्तितः ॥७८०॥
कर्णौष्ठघ्राणपादाक्षिजिह्वाशिश्नकरस्य च ।
छेदने चोत्तमो दण्डो भेदने मध्यमो भृगु ॥७८१॥
मनुष्याणां पशूनां च दुःखाय प्रहृते सति ।
यथा यथा भवेद् दुःखं दण्डं कुर्यात्तथा तथा ॥७८२॥
अस्पृश्यधूर्तदासानां म्लेच्छानां पापकारिणाम् ।
प्रतिलोमप्रसूतानां ताडनं नार्थतो दमः ॥७८३॥
छर्दिमूत्रपुरीषाद्यैरापाद्यः स चतुर्गुणः ।
षड्गुणः कायमध्ये स्यान्मूर्ध्नि त्वष्टगुणः स्मृतः ॥७८४॥
उद्गूरणे तु हस्तस्य कार्यो द्वादशको दमः ।
स एव द्विगुणः प्रोक्तः पातनेषु स्वजातिषु ॥७८५॥

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778 वि. र. p. 258, वीर॰ p 488 (last half).

779 अपरार्क p. 811, वि र. p. 274, वि. चि. p 77, वीर॰ pp. 481-82.

780 अपरार्क p 812, परा मा. III. p 412 (reads अमीपणेन), वि र p. 276, वि. चि. p. 77.

781 अपरार्क p 815 (no author named, reads गुरु for भृगुः), स्मृतिच॰ III. p. 762, वि र. p 265 (reads °घ्राणनासाक्षि॰), परा. मा. III. p. (पादादिजिह्वानासाकरस्य), वि. चि p 74, व्य. म. p. 230, वीर. p. 474.

782 परा. मा. III. p 417, वीर॰ p 475 (reads यथा महत्वं दुःखं)

783 अपरार्क p 813, वि. र. p 278, वि. चि p 78.

784 अपरार्क p. 813, परा. मा. III p 413 (reads °द्यैः पादाद्यो च), वि. र. p 262, वि. चि. p 72, व्य म. p. 230, वीर॰ p. 473 (°द्यै. स्पर्शने च)

785 वि. र. p. 262 (reads सजातिषु), परा. मा. III. p. 414, वि. चि. p. 78, वीर॰ p. 473.

वाक्पारुष्ये यथैवोक्ताः प्रातिलोम्यानुलोमतः ।
तथैव दण्डपारुष्ये पात्या दण्डा यथाक्रमम् ॥७८६॥
देहेन्द्रियविनाशे तु यथा दण्डं प्रकल्पयेत् ।
तथा तुष्टिकरं देयं समुत्थानं च पण्डितैः ॥
समुत्थानव्ययं चासौ दद्यादाव्रणरोपणात् ॥७८७॥
वाग्दण्डस्ताडनं चैव येषूक्तमपराधिषु ।
हृतं भग्नं प्रदाप्यास्ते शोध्यं निःस्वैस्तु कर्मणा ॥७८८॥
श्रान्तांस्तृषार्तान्क्षुधितानकाले वाहयेन्नरः ।
खरगोमहिषोष्ट्रादीन्प्राप्नुयात्पूर्वसाहसम् ॥७८९॥
द्विपणो द्वादशपणो वधे तु मृगपक्षिणाम् ।
सर्पमार्जारनकुलश्वसूकरवधे नृणाम् ॥७९०॥
गोकुमारीर्देवपशूनुक्षाणं वृषभं तथा ।
वाहयन् साहसं पूर्वं प्राप्नुयादुत्तमं वधः ॥७९१॥
प्रमापणे प्राणभृतां दद्यात्तत्प्रतिरूपकम् ।
तस्यानुरूपं मूल्यं वा दद्यादित्यब्रवीन्मनुः ॥७९२॥
वनस्पतीनां सर्वेषामुपभोगो यथा यथा ।
तथा तथा दमः कार्यो हिंसायामिति धारणा ॥७९३॥
शिष्यं क्रोधेन हन्याच्चेदाचार्यो लतया विना ।
येनात्यर्थं भवेत्पीडा वादः स्याच्छिष्यतः पितुः ॥७९४॥

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786 स्मृतिच॰ III, p. 762, परा. मा. III, p. 418, वि. र. p. 269, स. वि. p. 481, व्य. म. p. 231, वीर॰ p. 476.

787 स्मृतिच॰ III. p. 765, अपरार्क p. 816, परा. मा. III. pp. 419-420, व्य. म. p 232, वीर॰ pp. 476-77.

788 अपरार्क p. 816, वि. र. p. 270.

789 अपरार्क p. 818, वि. र. p. 280.

790 परा. मा. III. p 424, वि. र. p. 279 (reads त्रिपणो), वीर॰ p. 479 (reads नकुलसूकराश्ववधे).

791 वीर॰ p. 479 , परा. मा. III. p. 424 (पशुमसर्वं वृषभं and वधे) ascribes to मनु.

792 परा. मा. III. p. 425, वि. र. p. 284 (प्रतिरूपं तु दापयेत्).

793 वि. र॰ p. 284

794 स्मृतिच॰ III. p. 2'

(साहसम्)

सहसा यत्कृतं कर्म तत्साहसमुदाहृतम् ॥७९५॥

सान्वयस्त्वपहारो यः प्रसह्य हरणं च यत् ।
साहसं च भवेदेवं स्तेयमुक्तं विनिह्नवः ॥७९६॥

विना चिह्नैस्तु यत्कार्यं साहसाख्यं प्रवर्तते ।
शपथैः स विशोध्यः स्यात्सर्ववादेष्वयं विधिः ॥७९७॥

एकं चेद्बहवो हन्युः संरब्धाः पुरुषं नराः ।
मर्मघाती तु यस्तेषां स घातक इति स्मृतः ॥७९८॥

व्यापादनेन तत्कारी वधं चित्रमवाप्नुयात् ।
विनाशहेतुमायान्तं हन्यादेवाविचारयन् ॥७९९॥

उद्यतानां तु पापानां हन्तुर्दोषो न विद्यते ।
निवृत्तास्तु यदारम्भाद् ग्रहणं न वधः स्मृतः ॥८००॥

आततायिनि चोत्कृष्टे तपःस्वाध्यायजन्मतः ।
वधस्तत्र तु नैव स्यात्पापे हीने वधो भृगुः ॥८०१॥

उद्यतासिविषाग्निश्च चापोद्यतकरस्तथा ।
आथर्वणेन हन्ता च पिशुनश्चैव राजनि ॥८०२॥

भार्यातिक्रमकारी च रन्ध्रान्वेषणतत्परः ।
एवमाद्यान्विजानीयात्सर्वानेवाततायिनः ॥८०३॥

यशोवृत्तहरान्पापानाहुर्धर्मार्थहारकान् ।
अनाक्षारितपूर्वो यस्त्वपराधे प्रवर्तते ॥
प्राणद्रव्यापहारे च तं विद्यादाततायिनम् ॥८०४॥

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795 स. वि. p. 451.

796 स्मृतिच॰ III. p 733, वि. र. p. 287 (reads सान्वयस्तु प्रहारो), स. वि. p. 457 (reads विनिह्नवे).

797 स्मृतिच॰ III. p. 722, परा. मा. III. 453.

798 स्मृतिच॰ III. p 723, परा. मा. III p 454, वीर॰ p 501.

799 वि. र. p. 371 (first half only), स्मृतिच॰ III. p 727 (latter half only), the two halves are parts of different verses.

800 स्मृतिच॰ III., p. 729

801 स्मृतिच॰ III. p. 730, व्य म p 230.

802–803 स्मृतिच॰ III p 731, व्य. म. p. 241.

804 स्मृतिच॰ III. p. 731.

नखिनां शृङ्गिणां चैव दंष्ट्रिणां चाततायिनाम् ।
हस्त्यश्वानां तथान्येषां वधे हन्ता न दोषभाक् ॥८०५॥
गर्भस्य पातने स्तेनो ब्राह्मण्यां शस्त्रपातने ।
अदुष्टां योषितं हत्वा हन्तव्यो ब्राह्मणोऽपि हि ॥८०६॥
क्षतं भङ्गोपमर्दौ च कुर्याद्द्रव्येषु यो नरः ।
प्राप्नुयात्साहसं पूर्वं द्रव्यभाक्स्वाम्युदाहृतः ॥८०७॥
हरेच्छिन्द्याद्दहेद्वापि देवानां प्रतिमां यदि ।
तद्गृहं चैव यो भिन्द्यात्प्राप्नुयात्पूर्वसाहसम् ॥८०८॥
प्राकारं भेदयेद्यस्तु पातयेच्छादयेत्तथा ।
बध्नीयादम्भसो मार्गं प्राप्नुयात्पूर्वसाहसम् ॥८०९॥

(स्तेयम्)

प्रच्छन्नं वा प्रकाशं वा निशायामथवा दिवा ।
यत्परद्रव्यहरणं स्तेयं तत्परिकीर्तितम् ॥८१०॥
अन्यहस्तात्परिभ्रष्टमकामादुद्धृतं भुवि ।
चौरेण वा परिक्षिप्तं लोप्त्रं यत्नात्परीक्षयेत् ॥८११॥
तुलामानप्रतिमानप्रतिरूपकलक्षितैः ।
चरन्नलक्षितैर्वापि प्राप्नुयात्पूर्वसाहसम् ॥८१२॥
गृहे तु मुषितं राजा चौरग्राहांस्तु दापयेत् ।
आरक्षकांश्च दिक्पालान्यदि चौरो न लभ्यते ॥८१३॥

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805 स्मृतिच॰ III. p. 782.

806 विश्वरूप on या II. 281.

807 अपरार्क p. 820, वि. र. p. 353, वि. चि. pp. 97-98.

808 अपरार्क p. 822, स्मृतिच॰ III. p. 757, वि. र. p. 364, वि. चि. p. 301 (reads छिन्द्यात् for भिन्द्यात्), स. वि. p. 474.

809 वि. र. p 367.

810 दायभाग p. 224

811 अपरार्क p. 841, मिता॰ on या. II. 268 (ascribes to नारद), वि. र. p. 337, परा. मा. III. p. 437 (ascribes to नारद).

812 वि. र. p 295, वि. चि. p. 80.

813–814 अपरार्क p. 844 (reads आरक्षकान्), वि. र. 343, 345 (reads

ग्रामान्तरे हृतं द्रव्यं ग्रामाध्यक्षं प्रदापयेत् ।
विवीते स्वामिना देयं चौरोद्धर्ताविवीतके ॥८१४॥
स्वदेशे यस्य यत्किंचिद्धृतं देयं नृपेण तु ।
गृहीयात्तस्वय नष्टं प्राप्तमन्विष्य पार्थिव ॥८१५॥
चौरैर्हृतं प्रयत्नेन स्वरूपं प्रतिपादयेत् ।
तदभावे तु मूल्यं स्यादन्यथा किल्बिषी नृप ॥८१६॥
लब्धेपि चौरे यदि तु मोपस्तस्मान्न लभ्यते ।
दद्यात्तमथवा चौरं दापयेत्तु यथेप्सितं ॥८१७।
तस्मिन्थेह्वाप्यमानाना भवेद्दोपे तु संशय ।
सुपितं शपथं दाप्यो बन्धुभिर्वा विशोधयेत् ॥८१८॥
यस्मादपहृताल्लब्ध द्रव्यात्स्वरः तु स्वामिना ।
तच्छेरमाप्नुयात्तस्मात्प्रत्यये स्वामिना कृते ॥८१९॥
स्वदेशघातिनो ये स्युस्तथा मार्गनिरोधका ।
तेषा सर्वस्वमादाय राजा शूले निवेशयेत् ॥८२०॥
अचोराद्दापितं द्रव्यं चौरान्वेषणतत्परै ।
उपलब्धे लभेरंस्ते द्विगुणं तत्र दापयेत् ॥८२१॥
येन येन परद्रोहं करोत्यङ्गेन तस्करः ।
छिन्द्यादङ्गं नृपस्तस्य न करोति यथा पुन ॥८२२॥
अपुपे बालके द्वे तु पञ्चाम्र पञ्चदाडिमम् ।
खर्जूरबदरादीनां मुष्टिं गृह्णन्न दुष्यति ॥ ८८२ अ ॥
मानवा सद्य एवाहु सहोढानां प्रवासनम् ।
गौतमानामनिष्ट परप्राणयुच्छेदाद्विगर्हितम् ॥८२३॥

ग्रामान्तेषु and त्ववीतके) वि चि pp 94 95 (reads ग्रामान्ते and चौरो द्धर्ता विवीतके)

815-817 अपरार्क p 844, वि र p 345 (reads नर for नृप), वि चि p 95 (has 815 818)

818-819 अपरार्क p 844 वि र p 345-346 (ascribes them to वृद्धमनु)

820 अपरार्क p 845 वि र p 317 (ascribes to नारद and कात्यायन)

821 वि र p 338

822 अपरार्क p 845 (reads करात्येन) वि र p 329 वि चि p 91

822 A गृहस्थरत्नाकर (attributes to बृहस्पति and कात्यायन).

823 वि र p 332

सहोढमसहोढं वा तत्त्वागमितसाहसम्
प्रगृह्याच्छिन्नमावेद्य सर्वस्वैर्विप्रयोजयेत् ॥८२४॥
अथ सन्धानगुप्तास्तु मन्द्रभक्ता बलान्विताः ।
कुर्युः कर्माणि नृपतेरामृत्योरिति कौशिकः ॥८२५॥
परदेशाद्धृतं द्रव्यं वैदेह्येन यदा भवेत् ।
गृहीत्वा तस्य तद्द्रव्यमदण्डं तं विसर्जयेत् ॥८२६॥
चोराणां भक्तदा ये स्युस्तथाग्न्युदकदायकाः ।
भेतारश्चैव भाण्डानां प्रतिग्राहिण एव च ॥
समदण्डाः स्मृता ह्येते ये च प्रच्छादयन्ति तान् ॥८२७॥
अविद्वान्याजको वा स्यात्प्रवक्ता चानवस्थितः ।
तावुभौ चोरदण्डेन विनीय स्थापयेत्पथि ॥८२८॥
(स्त्रीसंग्रहणम्)
दूतोपचारयुक्तार्थैर्वेलास्थानसंस्थितिः ।
कण्ठकेशाञ्चलग्राहः कर्णनासाकरादिषु ।
एकस्थानासनाहाराः संग्रहो नवधा स्मृतः ॥८२९॥
स्त्रीषु वृत्तोपभोगः स्यात्प्रसह्य पुरुषो यदा ।
वधे तत्र प्रवर्तेत कार्यातिक्रमणं हि तत् ॥८३०॥
कामार्ता स्वैरिणी या तु स्वयमेव प्रकामयेत् ।
राजादेशेन मोक्तव्या विख्याप्य जनसंनिधौ ॥८३१॥

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824 अपरार्के 849, त्रि. र p 332 (reads प्रगृह्य विहमानेय ..र्विनियोजयेत्), वि चि. p 92 (reads सर्वस्वेन वियोजयेत्)
825 अपरार्के p. 849, त्रि र p 332, वि. चि. p 92 (reads मन्दभक्त-गुणान्विताः)
826 अपरार्के p. 849, त्रि र. p 333 (reads स्वदेशेषु समाहरेत्)
827 परा मा III p 446, त्रि. र. p. 340, वि चि. 93 (reads केतारश्चोरभाण्डानां and has last two halves only), वीर p 498.
828 विश्वरूप on या. III, 252
829 स्मृतिच० III pp. 17–18
830 स्मृतिच० III p 742, व्य. म p. 244 (reads कृतोपभोगः), वीर p. 504
831 अपरार्के p 860.

आरम्भकृत्सहायश्च तथा मार्गानुदेशक ।
आश्रय शस्त्रदाता च भक्तदाता विकर्मिणाम् ॥८३२॥
युद्धोपदेशकश्चैव तद्विनाशप्रदर्शक ।
उपेक्षाकार्ययुक्तश्च दोषवक्तानुमोदक ॥८३३॥
अनिषेद्धाक्षमो य स्यात्सर्वे तत्कार्यकारिण ।
यथाशक्त्यनुरूप तु दण्डमेषा प्रकल्पयेत् ॥८३४॥

(स्त्रीधर्म)

पत्या चाप्यवियोगिन्या शुश्रूषान्निर्विनीतया ।
सौभाग्यवद्वैधव्यकाम्यया भर्तृभक्तया ॥८३५॥
पतिशुश्रूषयैव स्त्री सर्वान्कामान्समश्नुते ।
दिव पुनरिहायाता सुखाना शेवधिर्भवेत् ॥८३६॥
मृते भर्तरि या साध्वी ब्रह्मचर्ये व्यवस्थिता ।
सारुन्धतीसमाचारा ब्रह्मलोके महीयते ॥८३७॥

(दायविभाग)

सकल द्रव्यजात यद्भागैर्गृह्णन्ति तत्समे ।
पितरो भ्रातरश्चैव विभागो धर्म्य उच्यते ॥८३८॥
पैतामह समान स्यात्पितु पुत्रस्य चोभयो ।
स्वय चोपार्जित पित्रा न पुत्र स्वाम्यमर्हति ॥८३९॥
पैतामह च पित्र्य च यच्चान्यत्स्वयमर्जितम् ।
दायादाना विभागे तु सर्वमेतद्विभज्यते ॥८४०॥

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832 834 अपरार्क p 821 (०क यदुक्तस्य) परा मा III p 455 (reads धर्मानुदशक तद्विनाशप्रवर्तक वक्तानुमोदका) वि र p 375 (reads दोषवक्तानु०) वि चि p 107 (युक्त्योपदेशकश्चैव तथा मार्ग प्रवर्तक and दोषवक्तानु०) स वि p 464 (omits the line अनिषेद्धा &c) वीर० p 501 (reads दोषवक्तानुदेशक and दोषवक्तानुमोदक) स्मृतिच० III pp 723–724 seems to attribute 832–833 to बृहस्पति and cites 834 as स्मृत्यन्तर

835–837 स्मृतिच० III p 589 591 596

838 स्मृतिच० III p 608 स वि p 354, व्य म p 98 वीर० p 571 (reads पितरौ)

839 स्मृतिच० III pp 648 and 650

840 दायभाग p 105 स्मृतिच० III p 635 परा मा III p. 558, स वि p 367, वि चि p 134 वि र 496

दृश्यमानं विभज्येत गृहं क्षेत्रं चतुष्पदम् ।
गूढद्रव्याभिशङ्कायां प्रत्ययस्तत्र कीर्तितः ॥८४१॥
गृहोपस्करवाह्याश्च दोह्याभरणकर्मिणः ।
दृश्यमाना विभज्यन्ते कोशं गूढेऽब्रवीद्भृगुः ॥८४२॥
जीवद्विभागे तु पिता नैकं पुत्रं विशेषयेत् ।
निर्भाजयेन्न चैवैकमकस्मात्कारणं विना ॥८४३॥
संप्राप्तव्यवहाराणां विभागश्च विधीयते ।
पुंसां च षोडशे वर्षे जायते व्यवहारिता ॥८४४॥
अप्राप्तव्यवहाराणां च धनं व्ययविवर्जितम् ।
न्यसेयुर्बन्धुमित्रेषु प्रोषितानां तथैव च ॥८४५॥
प्रोषितस्य तु यो भागो रक्षेयुः सर्व एव तम् ।
बालपुत्रे मृते रिक्थं रक्ष्यं तत्तन्तुबन्धुभिः(रक्षितव्यं तु बन्धुभिः?)
पौगण्डाः परतस्तं तु विभजेरन् यथांशतः ॥८४५॥ अ
भ्रात्रा पितृव्यमातृभ्यां कुटुम्बार्थमृणं कृतम् ।
विभागकाले देयं तद्रिक्थिभिः सर्वमेव तु ॥८४६॥
तदृणं धनिने देयं नान्यथैव प्रदापयेत् ।
भावितं चेत्प्रमाणेन विरोधात्परतो यदा ॥८४७॥
धर्मार्थं प्रीतिदत्तं च यदृणं स्यान्नियोजितम् ।
तद् दृश्यमानं विभजेन्न दानं पैतृकाद्धनात् ॥८४८॥

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841 अपरार्क p. 723, स्मृतिच० III p. 648 (first half) and p. 636 (latter half), वि. र. p. 498

842 अपरार्क p. 723 (reads ०कर्मिणः, दृश्यमानं विभाज्यं तु), स्मृतिच० III. p. 635, परा. मा. III p. 557, वि. र. p. 498.

843 वीर० p. 559, दायभाग p. 56.

844 अपरार्क p. 722.

845 दायभाग p 62, वीर० p 587.

845 A वि. र. p. 599.

846 अपरार्क p. 722, हरदत्त on आप. ध. सू. II. 6. 14 1, स्मृतिच० III. p. 616, व्य. म. p. 122, स वि. p. 356, वि. र. 496.

847 अपरार्क p 722, वि. र. p. 497.

848 स्मृतिच० III. p. 617, अपरार्क p 723 and स. वि. p. 356, विर. p. 497 (read स्वनियोजितम्).

उत्पद्ये चौरसे पुत्रे चतुर्थांशहरा सुता ।
सवर्णा असवर्णास्तु ग्रासाच्छादनभाजना ॥८५७॥
कन्यकानां त्वदत्तानां चतुर्थो भाग इष्यते ।
पुत्राणां तु त्रयो भागा साम्यं त्वल्पधने स्मृतम्॥८५८॥
क्षेत्रिकस्य मतेनापि फलमुत्पादयेत्तु य. ।
तस्येह भागिनौ तौ तु न फलं हि विनैकत. ॥८५९॥
क्लीब विहाय पतितं या पुनर्लभते पतिम् ।
तस्या पौनर्भवो जातो व्यक्तमुत्पादकस्य स ॥८६०॥
न मूत्रं फेनिलं यस्य विष्ठा चाप्सु निमज्जति ।
मेढ्रश्चोन्मादशुक्राभ्यां हीन क्लीव स उच्यते ॥८६१॥
अक्रमोढासुतश्चैव सगोत्राद्यस्तु जायते ।
प्रव्रज्यावसितश्चैव न रिक्थ तेषु चार्हति ॥८६२॥
अक्रमोढासुतस्त्वृक्थी सवर्णश्च यदा पितु ।
असवर्णप्रसूतश्च क्रमोढायां च यो भवेत् ॥८६३॥
प्रतिलोमप्रसूता या तस्या पुत्रो न रिक्थभाक् ।
ग्रासाच्छादनमत्यन्तं देयं तद्बन्धुभिर्मतम् ॥८६४॥

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857 मिता० on या II 132, अपरार्क p 733, परा मा III p 516, स वि p 393, वि चि p 150 (reads तृतीयांशहरा and •च्छादनभागिन), वीर० p 615, दायभाग p 148 (reads तृतीयांशहरा and भागिन for भाजना), मद पा p 658

858 दायभाग p 69, स्मृतिच० III p 626, वीर० p 582, वि र p 494

859–60 वीर० pp 604, 608, वि र 564 (has 860 only) वि र p 557 has a verse similar to 859, which it ascribes to नारद and कात्यायन It is क्षेत्रिकानुमते बीज यस्य क्षेत्रे प्रजायते । तदपत्य तयोरेव बीजिक्षेत्रिकयोर्मतम् ॥

861 दायभाग p 102

862 दायभाग 103 अपरार्क p 760, स्मृतिच० III p 630, परा मा. III p 546, व्य म. p. 163, वि चि p 133, वीर० p 712, वि र p 491

863–864 दायभाग p 103 (reads प्रतिलोमप्रसूते य and ग्रासाच्छादनमात्र तु), व्य म p 164, वीर० p 712, वि र p 491, वि चि p. 134 (has 863).

बन्धूनामप्यभावे तु पितृद्रव्यं तदाप्नुयात् ।
अपित्र्यं द्रविणं प्राप्तं दापनीया न चान्यथा ॥८६५॥

(अविभाज्यानि)

स्वशक्त्यापहृतं नष्टं स्वयमाप्तं च यद्भवेत् ।
एतत्सर्वं पिता पुत्रैर्विभागे नैव दाप्यते ॥८६६॥
परभक्तोपयोगेन विद्या प्राप्तान्यतस्तु या ।
तया प्राप्तं धनं यत्तु विद्याप्राप्तं तदुच्यते ॥८६७॥
उपन्यस्ते तु यल्लब्धं विद्यया पणपूर्वकम् ।
विद्याधनं तु तद्विद्याद्विभागे न विभज्यते ॥८६८॥
शिष्यादार्त्विज्यतः प्रश्नात् संदिग्धप्रश्ननिर्णयात् ।
स्वज्ञानशंसनाद्वादाल्लब्धं प्राध्ययनाच्च यत् ॥
विद्याधनं तु तत्प्राहुर्विभागे न विभज्यते ॥८६९॥
शिल्पिष्वपि हि धर्मोऽयं मूल्याद्यच्चाधिकं भवेत् ॥८७०
परं निरस्य यल्लब्धं विद्यातो द्यूतपूर्वकम् ।
विद्याधनं तु तद्विद्यान्न विभाज्यं बृहस्पतिः ॥८७१॥
विद्याप्रतिज्ञया लब्धं शिष्याच्चाप्तं च यद्भवेत् ।
ऋत्विङ्न्यायेन यल्लब्धमेतद्विद्याधनं भृगुः ॥८७२॥

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865 स्मृतिच॰ III. p 632, दायभाग p 103 (reads स्वपित्र्यं तद्धनं), वीर॰ p. 712 (reads स्वपित्र्यं तद्धनं प्राप्तं), वि र p 491 (अपित्र्यं तद्धनं)

866 अपरार्क p. 728, स्मृतिच॰ III. p 651, परा मा III p. 493 (reads ॰हृत द्रव्य)

867 मिता॰ on याँ II 118-119, अपरार्क p 724, हरदत्त on आप ध सू II 6 14 1, कुल्लूक on मनु 9 206, स्मृतिच॰ III p. 637, परा मा III p 559, मद पा p 685

868-870 दायभाग pp 122-123 (reads शिल्पेष्वपि), अपरार्क p 724, परा. मा III p 559, वि र 502 (reads परभक्तप्रदानेन and शिल्पेष्वपि), वि. चि p 136 स वि p 368, कुल्लूक on मनु 9 206 (has 868-69), स्मृतिच॰ III p 637

871-872 अपरार्क p 724, वि. र p 502, स्मृतिच॰ III p. 637, परा मा III. p. 559 (reads विद्यातोऽद्यूतपूर्वकम् and has only 871), व्य म p. 125, दायभाग p. 123 (has 871 only) The परा मा, स्मृतिच॰ and व्य म read 870 after 872 ·

विद्याबलकृतं चैव याज्यतः शिष्यतस्तथा ।
एतद्विद्याधनं प्राहुः सामान्यं यदतोन्यथा ॥ ८७३ ॥
कुले विनीतविद्यानां भ्रातॄणां पितृतोपि वा ।
शौर्यप्राप्तं तु यद्वित्तं विभाज्यं तद्बृहस्पतिः ॥ ८७४ ॥
नाविद्यानां तु वैद्येन देयं विद्याधनात्क्वचित् ।
समविद्याधिकानां तु देयं वैद्येन तद्धनम् ॥ ८७५ ॥
आरुह्य संशयं यत्र प्रसभं कर्म कुर्वते ।
तस्मिन्कर्मणि तुष्टेन प्रसादः स्वामिना कृतः ॥
तत्र लब्धं तु यत्किञ्चिद् धनं शौर्येण तद्भवेत् ॥८७६॥
शौर्यप्राप्तं विद्यया च स्त्रीधनं चैव यत्स्मृतम् ।
एतत्सर्वं विभागे तु विभाज्यं नैव रिक्थिभिः ॥८७७॥
ध्वजाहृतं भवेद्यत्तु विभाज्यं नैव तत्स्मृतम् ।
संग्रामादाहृतं यत्तु विद्राव्य द्विषतां बलम् ।
स्वाम्यर्थे जीवितं त्यक्त्वा तद्ध्वजाहृतमुच्यते॥८७८॥
यल्लब्धं दानकाले तु स्वजात्या कन्यया सह ।
कन्यागतं तु तद्वित्तं शुद्धं वृद्धिकरं स्मृतम् ॥ ८७९ ॥
वैवाहिकं तु तद्विद्याद्भार्यया यत्सहागतम् ।
धनमेवंविधं सर्वं विज्ञेयं धर्मसाधकम् ॥ ८८० ॥

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873 अपरार्क p. 724 (reads विद्यापणकृतं चैव), स्मृतिच॰ III, p. 637, परा. मा. III, p. 559, वि. र. p. 502 (reads विद्यापणकृतं चैव).

874 स्मृतिच॰ III p. 638-39, परा. मा. III. p. 560, व्य. म. p. 126, वि. चि. p. 136.

875 अपरार्क p. 725, स्मृतिच॰ III. p. 639, दायभाग p. 108, व्य. म. p. 126, वि. चि. p. 136, वि. र. p. 500, हरदत्त on आप. ध. सू. II. 6-14-1.

876 अपरार्क p. 725, स्मृतिच॰ III. p. 639-40, दायभाग p. 126, व्य. म. p. 127, वि. चि. p. 137.

877 परा. मा. III. p. 561

878 अपरार्क p. 725, दायभाग p. 126, स्मृतिच॰ III. p. 640, परा. मा. III. p. 561, व्य. म. p. 127, वि. चि. p. 137.

879-880 अपरार्क pp. 723-724 (reads लग्नकाले for दानकाले and प्रीतिकरं for वृद्धिकरं), स्मृतिच॰ III. pp. 640-641, वि. चि. p. 137, व्य. म. p. 128 (reads लग्नकाले)

विवाहकाले यत्किंचिद्वरायोद्दिश्य दीयते ।
कन्यायास्तद्धनं सर्वमविभाज्यं च बन्धुभिः ॥ ८८१ ॥
धनं पत्रनिविष्टं तु धर्मार्थं च निरूपितम् ।
उदकं चैव दासश्च निबन्धो यः क्रमागतः ॥ ८८२ ॥
धृतं वस्त्रमलंकारो नानुरूपं तु यद्भवेत् ।
यथा कालोपयोग्यानि तथा योज्यानि बन्धुभिः ॥८८३॥
गोप्रचारश्च रक्षा च वस्त्रं यच्चाङ्गयोजितम् ।
प्रयोज्यं न विभज्येत धर्मार्थं च बृहस्पतिः ॥ ८८४ ॥
देशस्य जातेः सङ्घस्य धर्मो ग्रामस्य यो भृगुः ।
उदितः स्यात् स तेनैव दायभागं प्रकल्पयेत् ॥८८४ अ

(प्रच्छादितविषयस्य पुनर्विभागः)

प्रच्छादितं यदि धनं पुनरासाद्य तत्समम् ।
भजेरन्भ्रातृभिः सार्धमभावे हि पितुः सुताः ॥ ८८५ ॥
अन्योन्यापहृतं द्रव्यं दुर्विभक्तं च यद्भवेत् ।
पश्चात्प्राप्तं विभज्येत समभागेन तद्भृगुः ॥ ८८६ ॥
विभक्तेनैव यत्प्राप्तं धनं तस्यैव तद्भवेत् ।
हृतं नष्टं च यल्लब्धं प्रागुक्तं च पुनर्भजेत् ॥ ८८७ ॥
बन्धुनापहृतं द्रव्यं बलाद्वेय प्रदापयेत् ।
बन्धूनामविभक्तानां भोगं नैव प्रदापयेत् ॥ ८८८ ॥

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881 अपरार्क p 751 (without name), स्मृतिच० III p 641.

882-884 अपरार्क pp. 725 726 (reads दासाश्च for दासश्च), स्मृ. म. p. 131 (has 882 883), दायभाग has 884 and reads रथ्या for रक्षा, प्रायोज्यं for प्रयोज्य and शिल्पार्थं for धर्मार्थं, वि र. pp. 504-505 (दाराश्च for दासश्च and शिल्पार्थं)

884A वि र. p 505

885-887 अपरार्क pp 732-733 (has 885, first half of 886 and latter half of 887), स्मृतिच० III pp 714-715 (has all three), दायभाग p 221 (has 885 886 and reads प्रच्छादितं तु यदेन पुनरासाद्य and अभावेपि हि तत्सुताः) वि. चि. p. 132 (has 885 886 and reads as दायभाग does), स. वि pp 438-439 (has all three), वि र. p. 526.

888 दायभाग p 222, वि चि. p. 144 (latter half), वीर० p. 707, वि. र. p 526

(बहोः कालादपि साधारणक्षेत्रविभागः)

क्षेत्रं साधारणं त्यक्त्वा योऽन्यदेशं समाश्रितः ।
तद्वंश्यस्यागतस्यांशः प्रदातव्यो न संशयः ॥ ८८९ ॥
तृतीयः पञ्चमो वापि सप्तमश्चापि यो भवेत् ।
जन्मनामपरिज्ञाने लभेतांशं क्रमागतम् ॥ ८९० ॥
यं परंपरया मौलाः सामन्ताः स्वामिनं विदुः ।
तदन्वयस्यागतस्य दातव्या गोत्रजैर्मही ॥ ८९१ ॥
विभक्ताः पितृवित्ताच्चेदेकत्र प्रतिवासिनः ।
विभजेयुः पुनर्द्व्यंशं स लभेतोदयो यतः ॥ ८९२ ॥

(विभक्तचिह्नानि)

वसेयुर्दश वर्षाणि पृथग्धर्माः पृथक्क्रियाः ।
भ्रातरस्तेऽपि विज्ञेया विभक्ताः पैतृकाद्धनात् ॥ ८९३ ॥

(स्त्रीधनलक्षणं स्त्रीधनप्रकाराश्च)

अध्यग्न्यध्यावाहनिकं दत्तं च प्रीतितः स्त्रियै ।
भ्रातृमातृपितृप्राप्तं षड्विधं स्त्रीधनं स्मृतम् ॥ ८९४ ॥
विवाहकाले यत्स्त्रीभ्यो दीयते ह्यग्निसंनिधौ ।
तदध्यग्निकृतं सद्भिः स्त्रीधनं परिकीर्तितम् ॥ ८९५ ॥
यत्पुनर्लभते नारी नीयमाना पितुर्गृहात् ।
अध्यावहनिकं चैव स्त्रीधनं तदुदाहृतम् ॥ ८९६ ॥

889-891 वि चि p 132, व्य म. pp 101 102 (has 889, but assigns no name and reads क्षेत्रसाधारण and ascribes 890 to बृहस्पति), स्मृतिच० III pp 712 713 ascribes all three to बृहस्पति.

892 दायभाग p 110

893 अपरार्क p 757 (reads वसेयुर्ये दशाब्दानि and विभक्ता भ्रातरस्ते च विज्ञेया पैतृके धने), स्मृतिच० III p 719, व्य नि p 443

894 दायभाग p 72 (ascribes to मनु and कात्यायन), वि र p 522 and वि चि p. 188 (also do so)

895-897 मिता on या II 143, अपरार्क p 751 (reads पादवन्दनिकं तत्तु लावण्यार्जितमुच्यते) स्मृतिच० III p 651, परा मा III p. 547, कुल्लूक on मनु 9 194 (has 895-898 and reads नीयमाना तु पैतृकात्), वि. र. p. 524 and वि चि p. 133 (reads यल्लावण्यार्जितं.

प्रीत्या दत्तं तु यत्किंचित् श्वश्र्वा वा श्वशुरेण वा ।
पादवन्दनिकं चैव प्रीतिदत्तं तदुच्यते ॥ ८९७ ॥
गृहोपस्करवाह्यानां दोह्याभरणकर्मिणाम् ।
मूल्यं लब्धं तु यत्किंचिच्छुल्कं तत्परिकीर्तितम्॥८९८॥
विवाहात्परतो यत्तु लब्धं भर्तृकुलात्स्त्रिया ।
अन्वाधेयं तदुक्तं तु लब्धं बन्धुकुलात्तथा ॥ ८९९ ॥
ऊर्ध्वं लब्धं तु यत्किंचित् संस्कारात् प्रीतितः स्त्रिया ।
भर्तुः पित्रोः सकाशाद्वा अन्वाधेयं तु तद्भृगुः ॥ ९०० ॥
ऊढया कन्यया वापि भर्तुः पितृगृहेऽपि वा ।
भ्रातुः सकाशात्पित्रोर्वा लब्धं सौदायिकं स्मृतम् ॥९०१

(स्त्रीधने स्वाम्यादिविचारः)

पितृमातृपतिभ्रातृज्ञातिभिः स्त्रीधनं स्त्रियै ।
यथाशक्त्या द्विसाहस्राद्दातव्यं स्थावरादृते ॥ ९०२ ॥
यत्तु सोपाधिकं दत्तं यच्च योगवशेन वा ।
पित्रा भ्रात्राथवा पत्या न तत्स्त्रीधनमिष्यते ॥ ९०३ ॥

मुच्यते and नीयमाना हि पैतृकात्), मद. पा. p 671 ,दायभाग p. 78, (has 895 96 and reads नीयमाना हि पैतृकात्)

898 दायभाग p. 93, अपरार्क p 752, स्मृतिच० III p 652, व्य म p 153, वीर० p 690, वि. र. p 525, मद. पा. p 671

899-900 दायभाग p. 71 (has both), वि र p 524 (has both and reads स्वकुलात्तथा), परा. मा III. p. 549 has 899 and reads लब्धं पितृकुलात्तथा, व्य. म. p 153 and वि चि p. 139 have 899 only and read यल्लब्धं स्वकुलात्तथा, मिता० on या II. and 144 स. वि. p 380 (have 899 and लब्धं पितृकुलात्तथा), वीर० p.690 has 899 and reads as व्य म. does अपरार्क p.752 and स्मृतिच० III. p.652 read one verse as विवाहात् ..स्त्रिया । भर्तुः पित्रोः सकाशाद्वा अन्वाधेयं तु तद्भृगुः ॥

901 मिता० on या. II 143, वीर० p 690, व्य म 155, परा मा. III. p. 549, अपरार्क p. 751 दायभाग p 76 reads भर्तुः सकाशात्.

902 स्मृतिच० III. p 652, परा. मा III p. 548, व्य. म. p 154.

903 स्मृतिच० III p 653, परा मा III p. 549, p व्य. म. p. 154, वीर० p. 688.

प्राप्तं शिल्पैस्तु यद्वित्तं प्रीत्या चैव यदन्यतः ।
भर्तुः स्वाम्यं तदा तत्र शेषं तु स्त्रीधनं स्मृतम् ॥९०४॥
सौदायिकं धनं प्राप्य स्त्रीणां स्वातन्त्र्यमिष्यते ।
यस्मात्तदानृशंस्यार्थं तैर्दत्तमुपजीवनम् ॥९०५॥
सौदायिके सदा स्त्रीणां स्वातन्त्र्यं परिकीर्तितम् ।
विक्रये चैव दाने च यथेष्टं स्थावरेष्वपि ॥९०६॥
भर्तृदायं मृते पत्यौ विन्यसेत्स्त्री यथेष्टतः ।
विद्यमाने तु संरक्षेत् क्षपयेत्तत्कुलेऽन्यथा ॥९०७॥
अथ चेत्स द्विभार्यः स्यान्न च तां भजते पुनः ।
प्रीत्या निसृष्टमपि चेत्प्रतिदाप्यः स तद्बलात् ॥९०८॥
ग्रासाच्छादनवासानामाच्छेदो यत्र योषितः ।
तत्र स्वमाददीत स्त्री विभागं रिक्थिनां तथा ॥९०९॥
लिखितस्यैनि धर्मोऽयं प्राप्ते भर्तृकुले वसेत् ।
व्याधिता प्रेतकाले तु गच्छेद्बन्धुजनं ततः ॥९१०॥
न भर्ता नैव च सुतो न पिता भ्रातरो न च ।
आदाने वा विसर्गे वा स्त्रीधने प्रभविष्णवः ॥९११॥
यदि ह्येकतरोऽप्येषां स्त्रीधनं भक्षयेद्बलात् ।
सवृद्धिकं प्रदाप्यः स्याद्दण्डं चैव समाप्नुयात् ॥९१२॥

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904 स्मृतिच० III. p. 654, परा मा III. p 550, व्य. म. p. 154, वीर० p. 689, दायभाग p 76.

905 अपरार्क p. 752, स्मृतिच० III. p. 654, परा. मा. III p. 549, वि. चि. p 139 (reads दत्तं तत्प्रजीवन), वीर० p 691, दायभाग p. 76 (reads तैर्दत्तःप्रजीवनम्).

906–907 स्मृतिच० III p 655 (both), अपरार्क p. 752 (has only 906), दायभाग pp 76 and 73, वि. चि pp 139-140 (has both), वीर० p. 691 and व्य म. p. 155 (have only 906), वि. र. pp. 510-511.

908–909 अपरार्क p 755 (reads आददीत), दायभाग p 78 (reads विसृष्टमपि), स्मृतिच० III p 658, वीर० p. 692, वि. र. p. 514.

910 अपरार्क p. 755 (first half only), वि. चि. p 141, वि. र p. 514 (has whole verse).

911–915 दायभाग p. 78 and अपरार्क p. 754 (read गृहस्थ and यदास्त्री). स्मृतिच० III. p., 656, व्य. मा. p. 286 (has 911-912), व्य.म. pp.

तदेव यद्यनुज्ञाप्य भक्षयेत्प्रीतिपूर्वकम् ।
मूल्यमेव प्रदाप्यः स्याद्यद्यसौ धनवान्भवेत् ॥ ९१३ ॥
व्याधितं व्यसनस्थं च धनिकैर्वोपपीडितम् ।
ज्ञात्वा निसृष्टं यत्प्रीत्या दद्याद्दातैच्छया तु स ॥९१४॥
जीवन्त्याः पतिपुत्रास्तु देवराः पितृबान्धवाः ।
अनीशाः स्त्रीधनस्योक्ता दण्ड्यास्त्वपहरन्ति ये ॥९१५
भर्त्रा प्रतिश्रुतं देयमृणवत्स्त्रीधनं सुतैः ।
तिष्ठन्भर्तृकुले या तु न सा पितृकुले वसेत् ॥९१६॥

(मृतायाः स्त्रिया धनाधिकारिणः)

भगिन्यो बान्धवैः सार्धं विभजेरन्सभर्तृकाः ।
स्त्रीधनस्येति धर्मोऽयं विभागस्तु प्रकल्पितः ॥ ९१७ ॥
दुहितॄणामभावे तु रिक्थं पुत्रेषु तद्भवेत् ।
बन्धुदत्तं तु बन्धूनामभावे भर्तृगामि तत् ॥ ९१८ ॥
पितृभ्यां चैव यद्दत्तं दुहितुः स्थावरं धनम् ।
अप्रजायामतीतायां भ्रातृगामि तु सर्वदा ॥ ९१९ ॥
आसुरादिषु यल्लब्धं स्त्रीधनं पैतृकं स्त्रिया ।
अभावे तदपत्यानां मातापित्रोस्तदिष्यते ॥ ९२० ॥

155-56, वीर॰ p 692 म वि p 330 (has 912-913), वि. र p 513.

914 अपरार्क p 755, स्मृतिच॰ III. p. 658, वि. चि p 141, वि. र. p 513.

915 अपरार्क p 752

916 स्मृतिच॰ p III 659 (first half only), वि चि. p. 142, वि. र, p. 514 (कुले भ्रातु न वा पितृ॰)

917 अपरार्क p 721, स्मृतिच॰ III p 661 and 667, वि. चि. p. 143, वीर॰ p. 695 (first half), वि र p 518.

918 अपरार्क pp. 721 and 753, वि चि p. 143, स्मृतिच॰ III. p. 664, वीर॰ p 697 (has first half only and reads पुत्रस्य), वि. र. p. 518, दायभाग p. 95 (latter half only)

919 दायभाग p 92 (ascribes to वृद्धकात्यायन), वीर॰ p. 704 (reads अतीतायामप्रजसि).

920 स्मृतिच॰ III. p. 665, व्य मा. III. p. 554.

(अपुत्रधने पत्न्यादयो धनाधिकारिणः)

अपुत्रा शयनं भर्तुः पालयन्ती गुरौ स्थिता ।
भुञ्जीतामरणात्क्षान्ता दायादा ऊर्ध्वमाप्नुयुः ॥ ९२१ ॥
स्वर्याते स्वामिनि स्त्री तु ग्रासाच्छादनभागिनी ।
अविभक्ते धनांशं तु प्राप्नोत्यामरणान्तिकम् ॥ ९२२ ॥
भोक्तुमर्हति कृत्स्नांशं गुरुशुश्रूषणे रता ।
न कुर्याद्यदि शुश्रूषां चैलपिण्डे नियोजयेत् ॥ ९२३ ॥
मृते भर्तरि भर्त्रंशं लभेत कुलपालिका ।
यावज्जीवं न हि स्वाम्यं दानाधमनविक्रये ॥९२४॥
व्रतोपवासनिरता ब्रह्मचर्ये व्यवस्थिता ।
दमदानरता नित्यमपुत्रापि दिवं व्रजेत् ॥ ९२५ ॥
पत्नी भर्तुर्धनहरी या स्यादव्यभिचारिणी ।
तदभावे तु दुहिता यद्यनूढा भवेत्तदा ॥ ९२६ ॥
अपुत्रस्याथ कुलजा पत्नी दुहितरोऽपि वा ।
तदभावे पिता माता भ्राता पुत्राश्च कीर्तिताः ॥९२७॥
विभक्ते संस्थिते द्रव्यं पुत्राभावे पिता हरेत् ।
भ्राता वा जननी वाथ माता वा तत्पितुः क्रमात् ॥
अपचारक्रियायुक्ता निर्लज्जा वार्थनाशिका ॥ ९२८ ॥

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921 दायभाग p. 171, स्मृतिच॰ III. p. 677, स. वि. p. 410, वि. चि. p. 140, वीर॰ p. 627

922-923 स्मृतिच॰ III pp 678 679, स वि pp 410 411 (reads अविभक्तधनांश), व्य म. pp 139 140 (reads चैलं पिण्डं), वीर॰ pp. 654-655 (reads धनांशे तु)

924-925 व्य. म 138, वीर॰ p 626.

926 मिता॰ on या II. 135, स्मृतिच॰ III p 688 (reads यद्यनूढाप्रतिष्ठिता), मद पा p 672, परा. मा III p 524, व्य म p 141, स वि p 412, वीर॰ p 631

927 मिता॰ on या. II 135 (reads अपुत्रस्याथकुलजा), स्मृतिच॰ III p. 693, परा मा. III p 526, व्य म p. 141 (अपुत्रस्य च).

928 मिता on या. II 135, अपरार्क p 745, स्मृतिच॰ III p 690, परा. मा. III. p. 532, वि. चि. p. 154, वीर॰ p. 638.

व्यभिचाररता या च स्त्री धनं सा न चार्हति ॥९२९॥
नारी खल्वननुज्ञाता पित्रा भर्त्रा सुतेन वा ।
विफलं तद्भवेत्तस्या यत्करोत्यौर्ध्वदेहिकम् ॥ ९३० ॥
अदायिकं राजगामि योषिद्भृत्यौर्ध्वदेहिकम् ।
अपास्य श्रोत्रियद्रव्यं श्रोत्रियेभ्यस्तदर्पयेत् ॥ ९३१ ॥
संसृष्टानां तु संसृष्टा पृथक्स्थाना पृथक्स्थिताः ।
अभावेऽर्थहरा ज्ञेया निर्बीजान्योन्यभागिनः ॥ ९३२ ॥
(द्यूतसमाह्वयौ)
द्यूतं नैव तु सेवेत क्रोधलोभविवर्धकम् ।
असाधुजननं क्रूरं नराणां द्रव्यनाशनम् ॥ ९३३ ॥
ध्रुवं द्यूतात्कलिर्यस्माद्विष सर्पमुखादिव ।
तस्माद्राजा निवर्तेत विषये व्यसनं हि तत् ॥ ९३४ ॥
वर्तेत चेत्प्रकाशं तु द्वारावस्थिततोरणम् ।
असंमोहार्थमार्याणां कारयेत्तत्करप्रदम् ॥ ९३५ ॥
सभिकं कारयेद् द्यूतं देयं दद्यात्स्वयं नृपे ।
दशकं तु शते वृद्धिं गृह्णीयाद्य पराजयात् ॥ ९३६ ॥
जेतुर्दद्यात्स्वकं द्रव्यं जिताद्ग्राह्यं विपक्षकम् ।
सद्यो वा सभिकेनैव कितवाच्च न संशय ॥ ९३७ ॥

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929 मेधातिथि on मनु 8 28 (as स्मृत्यन्तर) वि चि p 141, and व्य म p. 140 and वीर० p 655 (read अपकार०) परा मा III p 582

930 व्य म p 113

931 परा मा III p 535 व्य म p 139

932 वि चि p 160, वि र p 605 (reads अभावेऽर्थहरा)

933–34 वि चि p 166, वि र p 611

935 वि र p 611

936 अपरार्क p 803 (reads दशकं तु शतं) स्मृतिच० III p 769 (latter half only) वि र p 612 (reads तु शतं पराजये)

937 अपरार्क p 803 (reads जितग्राह्यं निपक्षिकम्) स्मृतिच० III p 769 वि र p 612 (reads विपक्षं and कितवान्नसंशये), वीर० p 719 (reads जितं पक्षिकं and वा कितवेनैव सभिकात्तु) परा मा III p 575 (reads as अपरार्क does)

एकरूपा द्विरूपा वा द्यूते यस्याक्षदेविन ।
दृश्यते च जयस्तस्य यस्मिन् रक्षा व्यवस्थिता ॥९३८॥
अथवा कितवो राज्ञे दत्त्वा भागं यथोदितम् ।
प्रकाशं देवनं कुर्यादेवं दोषो न विद्यते ॥ ९३९ ॥
प्रसह्य दापयेद्देयं तस्मिन्स्थाने न चान्यथा ।
जितं वै सभिकस्तत्र सभिकप्रत्यया क्रिया ॥ ९४० ॥
अनभिज्ञो जितो मोच्योऽमोच्योऽभिज्ञो जितो दृढः ।
सर्वस्वे विजितेऽभिज्ञे न सर्वस्वं प्रदापयेत् ॥ ९४१ ॥
विप्रदेथ जये लाभे करणे कूटदेविनाम् ।
प्रमाणं सभिकस्तत्र शुचिश्च सभिको यदि ॥ ९४२ ॥
म्लेच्छश्वपाकधूर्तानां कितवानां तपस्विनाम् ।
तत्कृताचारमेत्तृणां निश्चयो न तु राजनि ॥ ९४३ ॥

(प्रकीर्णकम्)

पूर्वोक्तादुक्तशेषं स्यादधिकारच्युतं च यत् ।
आहृत्य परतन्त्रार्थनिबद्धमसमञ्जसम् ॥ ९४४ ॥
दृष्टान्तत्वेन शास्त्रान्ते पुनरुक्तक्रियास्थितम् ।
अनेन विधिना यच्च वाक्य तत्स्यात्प्रकीर्णकम् ॥९४५॥
राजधर्मान्स्वधर्मांश्च संदिग्धानां च भाषणम् ।
पूर्वोक्तादुक्तशेष च सर्वं तत्स्यात्प्रकीर्णकम् ॥ ९४६ ॥
सद्भागकरशुल्कं च गर्ते देयं तथैव च ।
संग्रामचौरभेदी च(दश्च?) परदाराभिमर्दनम् ॥९४७॥
गोब्राह्मणजिघांसा च शस्त्रव्याघातकृत्तथा ।
एतान्दशापराधांस्तु नृपतिः स्वयमन्विषेत् ॥ ९४८ ॥
निरूढीनामकरणमाज्ञासेधव्यतिक्रमः ।
वर्णाश्रमविरोधश्च प्रर्णसङ्करलोपनम् ॥ ९४९ ॥

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938 वि र p 614

939 स्मृतिच॰ III p 769 अपरार्क p 803 and वीर॰ p 718 ascribe it to नारद

940 41 अपरार्क p 804, वि र pp 615 616 (reads दापयेद्द्रव्यं, °प्रत्ययास्थिता, जितो मोच्यो भिज्ञो वापि जितो)

942-943 अपरार्क p 804 वि र p 617 (निश्चयेन)

944 952 वि र pp. 622 [illegible]

निधिर्निष्फलवित्तं च दरिद्रस्य धनागमः ।
एतांश्चारैः सुविदितान् स्वयं राजा निवारयेत् ॥९५०॥
अनाम्नातानि कार्याणि क्रियावादाश्च वादिनाम् ।
प्रकृतीनां प्रकोपश्च सङ्केतश्च परस्परम् ॥ ९५१ ॥
अशास्त्रविहितं यच्च प्रजाया संप्रवर्तते ।
उपायैः सामभेदाद्यैरेतानि शमयेन्नृप ॥ ९५२ ॥
मित्रादिषु प्रयुञ्जीत वाग्दण्डं धिक् तपस्विनि ।
यथोक्तं तस्य तत्कुर्यादनुक्तं साधु कल्पितम् ॥ ९५३ ॥
प्रमाणेन तु कूटेन मुद्रया वापि कूटया ।
कार्यं तु साधयेद्यो वै स दाप्यो दममुत्तमम् ॥ ९५४॥
राजक्रीडासु ये सक्ता राजवृत्त्युपजीविनः ।
अप्रियस्य च यो वक्ता वधं तेषां प्रवर्तयेत् ॥ ९५५ ॥
प्रतिरूपस्य कर्तारं प्रेक्षकाः प्रकराश्च ये ।
राजार्थमोषकाश्चैव प्राप्नुयुर्विविधं वधम् ॥ ९५६ ॥
प्रव्रज्यावसितं शूद्रं जपहोमपरं तथा ।
वधेन शासयेत्पापं दण्ड्यो वा द्विगुणं दमम् ॥९५७॥
सचिह्नमपि पापं तु पृच्छेत्पापस्य कारणम् ।
तदा दण्डं प्रकल्पेत दोषमारोप्य यत्नतः ॥ ९५८ ॥
सद्वृत्तानां तु सर्वेषामपराधो यदा भवेत् ।
अवशेनव दैवात्तु तत्र दण्डं न कल्पयेत् ॥ ९५९ ॥
सम्यग्दण्डप्रणेतारो नृपाः पूज्याः सुरैरपि ।
आरम्भे प्रथमं द्वयारम्भवृत्तौ मध्यमं स्मृतं ॥
यस्य यो विहितो दण्डः पर्याप्तस्य स वै भवेत् ॥९६०॥

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953 वि र p 629

954 अपरार्क p 863 स्मृतिच० III p 757, स त्रि p 475 (reads मुद्रया वानुकूलया and दाप्योत्तमसाहसम्), वि र p 370

955 स्मृतिच० III p 773 परा मा III p 580 (reads अप्रियं चास्य), वि र p 368 वि चि p 103 वीर० p 724

956 वि चि p 103

957 परा मा III p 582 वीर० p 724

958 वि र p 630

959 960 वि र p 631

राजानो मन्त्रिणश्चैव विशेषादेवमाप्नुयुः ।
अशासनात्तु पापानां नतानां दण्डधारणात् ॥ ९६१ ॥
परतन्त्राश्च ये केचिद्दासत्वं ये च संस्थिताः ।
अनाथास्ते तु निर्दिष्टास्तेषां दण्डस्तु ताडनम् ॥९६२॥
ताडनं बन्धनं चैव तथैव च विडम्बनम् ।
एष दण्डो हि दासस्य नार्थदण्डो विधीयते ॥ ९६३॥
सुवर्णशतमेकं तु वधार्हो दण्डमर्हति ।
अङ्गच्छेदे तदर्धं तु विवासे पञ्चविंशतिम् ॥ ९६४ ॥
कुलीनार्यविशिष्टेषु निकृष्टेष्वनुसारतः ।
सर्वस्वं वा निगृह्यैतान् पुराच्छीघ्रं प्रवासयेत् ॥९६५॥
निर्धनो बन्धने स्थाप्या वधं नैव प्रवर्तयेत् ।
सर्वेषां पापयुक्तानां विशेषार्थश्च शास्त्रतः ॥ ९६६ ॥
वधाङ्गच्छेदार्हविप्रो निःसङ्गं बन्धने विशेत् ।
तद्कर्मवियुक्तोसौ वृत्तस्तस्य दमो हि सः ॥ ९६७ ॥
कूटसाक्ष्यपि निर्वास्यो विख्याप्योऽसत्प्रतिग्रही ।
अङ्गच्छेदी वियोज्यः स्यात् स्वधर्मे बन्धनेन तु॥९६८॥
एतैः समापराधानां तथाप्येवं प्रकल्पयेत् ।
बालवृद्धातुरस्त्रीणां न दण्डस्ताडनं दमः ॥ ९६९ ॥
स्त्रीधनं दापयेद्दण्डं धार्मिकः पृथिवीपतिः ।
निर्धना प्राप्तदोषा स्त्री ताडनं दण्डमर्हति ॥ ९७० ॥
अन्यायोपार्जितं न्यस्तं कोषे कोषं निवेशयेत् ।
कार्यार्थं कार्यनाशः स्याद्बुद्धिमान्नोपपातयेत्॥९७१॥
दत्त्वा धनं तद्विप्रेभ्यः सर्वं दण्डसमुत्थितम् ।
पुत्रे राज्यं समासज्य कुर्वीत प्रायणं वने ॥ ९७२ ॥
एवं चरेत्सदा युक्तो राजा धर्मेषु पार्थिवः ।
हितेषु चैव लोकस्य सर्वान् भृत्यान्नियोजयेत् ॥९७३॥

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961 वि. र. p. 650

662 वि. र p 655

963 वि. र. p 655, परा. मा III, p 212 attributes this to बृहस्पति and reads latter half as दण्डो हि रुद्रस्य नार्थदण्डो बृहस्पतिः ॥

964 968 वि. र. p. 657,

969 वि र p 658.

970 वि र 659,

971-973 वि. र. p 663.

Some Abbreviations employed in the Translation and Notes

Apar = Aparārka's com on Yājnavalkya

Br = Translation of Brhaspati by Dr Jolly in the Sacred Books of the East Series vol 33

D B = Dāyabhaga

Kat = Katyayana

Kaut = Arthaśastra of Kautilya (text, ed in 1919 by Dr Sham Sastri and translation by him in 1915)

Kul = Kulluka's commentary on Manusmrti

Mit = Mitaksara of Vijñaneśvara

Nar = Translation of Nārada smṛti by Dr Jolly in Sacred Books of the East Series vol 33

Par M = Paraśaramādhaviya

Sar = Sarasvativilāsa (text)

Sm C = Smrticandrikā (text, Mysore edition)

V C = Vivāda cintamani

Vi = Visnu dharmasutra

Vir = Viramitrodaya (text ed by Jivananda)

Vis = Visvarupa's commentary on Yajñavalkya

V M = Vyavaharamayukha of Nilakantha (text &c ed by me)

V R = Vivādaratnākara (text)

Vy Māt = Vyavaharamātṛkā of Jimutavāhana

Yāj = Yājnavalkya-smṛti

9 Kings who abide by the duties peculiar to themselves attain to the position of Indra; but those (kings) whose actions go astray (from the path of dharma) have to reside in the *Avīci* hell (after death)

10 That king, who gives way to (sudden) wrath without proper thought, no doubt would reside in an horrible hell for half a *kalpa*

11, He (the king) should appoint a minister who is a brāhmaṇa, is endowed with these qualities, who is (always) absorbed in (state) business who is devoted to the king and who is the best of his family

12 Where the ministers, the *sabhyas* (members of the assembly of justice) and physicians are given to speaking what is agreeable (to the king), the king would there be soon deprived of his kingdom, of *dharma* and of happiness (respectively).

13 He (the king) should not direct his wrath towards them (ministers *sabhyas*, and physicians) when they tell him (the truth), since these must always tell the king what is proper and what is firmly fixed

14 Where the king himself looks into all actions according to the dictates of *dharma*, there the people behave well and reside in happiness

15 Constant protection of the subjects, eradication of evil doers, honouring brāhmaṇas —for these purposes the king was made

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9 'Avīci' is one of the 21 hells prescribed for sinners Vide Yāj III 222 225 and Vi 43 1–22

10 Read 'narake' for 'narakam 'Kalpa is an enormous period It is a day of Brahmā and is equal to a thousand divine *yugas*, each divine *yuga* being equal to 12000 human years Vide Manu I 68 72

11 'Endowed with these qualities Probably this refers to the qualities of the king enumerated above

12 If the minister were to give such advice as would be agreeable to the king and not what would be of real benefit to the state, the king would lose his kingdom Similarly if the *sabhyas* were to decide according to the whims of the king, they would be perpetrating injustice (i e he would lose dharma) If physicians were to prescribe what was agreeable to the king his health and happiness would suffer

15 Compare Manu VII 88 and IX 253 and Yāj I 323 The Kautiliya contains a special *adhikaraṇa* (4th) on kantakaśodhana

16 The king is declared to be the lord of the land, but never of other kinds of wealth therefore he should secure the sixth part of the fruits of land but not otherwise at all

17 Since (human) beings reside on it (on land) their ownership thereof has been declared The king's ownership is restricted to taking one sixth as a tax, since the latter is dependent on good and evil portents (or natural phenomena and calamities of storms rains, locusts etc)

18 That king who, giving up greed, acts in this manner is blessed with sons and his domain and treasury prosper

19 The king who unjustly takes from his kingdom taxes fines, share of crops and tolls incurs sin

20 He (the king) should discard the teachings of politics and resort to the dictates of dharmaśāstra (sacred law).

21 Even when the king is at fault (the conqueror) should not ruin the country (for the vanquished king's faults), since he (the vanquished king) does not start on (his career of) wrong doing with the consent of his subjects

22 Whatever (gift) a king offers in a proper manner to a suppliant without distress (to himself), that gift saves him such a gift made for the purpose of (accumulating) merit becomes enduring (in its results)

23 Whatever is gained by kings after justly attacking and conquering their enemy is untainted and fit to be bestowed (in gift) and not anything else which is acquired in a different way

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16-17 The idea underlying these verses seems to be that the king is the owner of all land in the state therefore he is entitled to demand a sixth part of the produce of the land The actual cultivators of the soil have only a qualified ownership over land which they are said to own because they reside on it and produce crops The latter half of 17 is difficult to construe The translation above is only tentative. According to the V M the king was not the owner of the soil (p 91 text) Kātyāyana's view seems to be the same as that embodied in section 37 of the Bombay Land Revenue Code

20 This embodies the rule of conduct in the case of conflict between the teachings of Arthaśāstra and Dharmaśāstra Vide Yāj II 21 Nār I 39 p 15 and Āp Dh S I 7 24 23 for a similar view Kautilya also says [illegible] p 150 (text)

24 The king should appoint as his *purohita* (a family priest) a brahmana who is (highly) spoken of (by the learned), who is well disposed, endowed with perfect (Vedic) learning, who is not greedy and who speaks the truth

(Definition of Vyavahāra)

25 When the ramifications of right conduct, that together are called dharma and that can be established only with effort, have been violated, the dispute (in a law court between plaintiff and defendant) which springs from what is desired to be proved (such as a debt) is said to be *vyavahara*

26 'Vi' is employed in the sense of 'various,' 'ava' in the sense of 'doubt', 'hara' means 'removing', 'vyavahāra' is so called because of its removing various doubts

27. The king should not through being won over or through greed of money take upon himself the disputes of men

when they do not themselves contend (in a court)

28 He, who causes (physical) injury or does not give back through wickedness what he owes to (his creditor) even though the latter beseeches (him), should be dragged by order of the king

29 (Vyavahara) has two aspects, which come to be eighteen owing to the manifoldness in the objects to be secured (by litigation), the eighteen again become 1008 owing to the multifariousness of the matters to be proved

30 What the plaintiff complains of (before the court) is the root of the litigation, the two springs (of vyavahara) are said to be non rendition of what is due and injury

31 This (*vyavahāra*) is said to have four feet i e stages viz the plaint the defence (or reply), the deliberation (as to burden of proof) and the adducing of proof

32 Dharmasastra (sacred law) and Arthasastra (science of politics and government) are declared to be the two main branches (of vyavahara) and victory and defeat are declared to be the two fruits

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29 The two aspects of *vyavahara* are civil (*dhanamula*) and criminal (*himsamula*) the former contains 14 titles of law and the latter 4 These eighteen titles can be subdivided into 132 according to Nar (p 12) Vide also Br p 283 verse 5 for division into civil and criminal disputes

30 Compare बृहस्पति हिंसा वा कुरुत यश्चिदद्य वा न प्रयच्छति । द्वे हि स्थाने विवादस्य तयोर्बहुतरा गतिः ॥ (स्मृतिच (III p 2) vide Br p. 283, v 4

31 According to B the four padas are plaint reply, *kriya* (adducing of proof) and decision (vide Apar p 616) while the Vir, quotes (p 59) another verse of Brhaspati s where the four padas are bhaṣa (plaint uttara kriya and pratyakalita (Br p. 289 verse 1) The meaning of pratyakalita according to the Vir and Apar is 'deliberation of the judge and assessors as to where the *onus probandi* lies and as to the method of proof According to the Mit (on Yaj II 8 *pratyakalita* in this sense is not a *vyavaharapada*, since it is a function of the judge only and has no direct relation to the litigants but *pratyakalita* in the sense of decision of the suit may be a vyavahārapada According to Nar (p 7 v 10) the four feet of vyavahara are dharma, vyavahara caritra royal edict

32 Verses 30 and 32 seem to refer to the dictum of Harita about vyavahara 'एकमूलो द्विद्वारश्चतुष्प्रतिष्ठः' (स्मृतिच III. p. 27).

33. That man is declared to be *stobhaka* who with a sole eye to money and without being urged by the king first informs (the king) of a matter which is censured by śāstra (sacred law)

34. That man is declared to be *sūcaka* who is appointed by the king himself for discovering the wrong-doing of others and who coming to know of it conveys it to the king.

(Comparative strength of dharma, vyavahāra, caritra and rājas'āsana)

35. In a dispute where the person guilty of wrong-doing accepts (confesses to) his responsibility for it and where the real owner of the money (in dispute) secures his wealth by the admission of the defendant the decision is by *dharma* (moral law) itself.

36. That is said to be *vyavahāra* (decision by judicial proof) where, for the purpose of deciding the causes (of litigants), those who are to execute the sacred law (i. e. the judge and assessors) put forward some principles of dharmaśāstra (viz. examination of plaint, reply, witnesses &c.).

33-34 A stobhaka is a private informant who gives information to the king for a reward, while a sūcaka is a servant of the king or an officer of the criminal intelligence department These two verses have reference to *chalas, aparādhas and padas* as to which the king was to proceed *suo motu*. Read राज्ञाप्रचोदित.

35 Nārada (vide 34 above) spoke of vyavahāra as four-fold. But what he meant is made clear by Bṛhaspati 'धर्मेण व्यवहारेण चरित्रेण नृपाज्ञया । चतुष्प्रकारोऽभिहितः सन्दिग्धेऽर्थे विनिर्णयः ' स्मृतिच॰ III p 21 Vide Bṛ p 285 v 18 'Decision' is the fourth pāda of *vyavahāra* according to Bṛ and this last can be arrived at in four ways viz by dharma, by vyavahāra, by caritra and by rājaśāsana When a person guilty of a crime (doṣa) admits his guilt (through repentance and on account of being afraid of sins) without fighting out the proceeding and when a defendant also admits in his reply his liability to pay, there the decision is said to be by dharma, as the admission is due to the desire to follow *dharma* and to the fear of *adharma* Here there is no necessity of proof, or usage, or royal edict It is therefore that Nār says 'तत्र सत्ये स्थितो धर्मो व्यवहारस्तु साक्षिषु । चरित्रं पुस्तकरणे राजाज्ञायां तु शासनम् ॥'. This very verse occurs in Kauṭilya (p. 150 text) where we read चरित्रं संग्रहे पुंसाम्.

36 It is therefore that Nār says that decision by vyavahāra rests on witnesses, as they are the principal instrument of proof. Compare Bṛ. p. 286 v. 24.

37 Whatever a person practises, whether it be according to dharma (the letter of the sacred law) or not, because it is the invariable usage in a country, is declared to be *caritra* (usage)

38 What a king establishes as dharma which is not in conflict with the smrti rules on justice and with the usages of the country is a righteous royal edict

39 Where a cause is tried by (an appeal to) reasoning and ordeals are eschewed, there (decision by) *dharma* is overruled by *vyavahara* and not in other cases

40 (The king) should not disregard the fixed rules of conduct among those who belong to the *pratiloma* castes and among inhabitants of forts (or inaccessible mountain places), even if they are opposed (to rules of smrti)

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37 Certain usages observed by the people of a country may not be in accordance with the rules contained in certain dharmaśāstras (such as marriage with a maternal uncle s daughter) yet if the question of the validity of such a marriage comes before the court it is to be decided according to usage and not according to dharmaśāstra Here a decision based on usage (caritra) is itself called *caritra* Vide Manu I 108 on ācāra (usages) being transcendental law and Yāj I 343 on the king s duty to respect the usages of a conquered country Nārada s text as read by Caṇḍeśvara 'चरित्रं पुस्तकरणं' means documentary evidence but Par M (III p 10) reads चरित्रं तु स्वीकरणे which means the same thing as above Vide Vīr p 9 for criticism of these two readings व्यास also says 'देशस्थित्या पूर्वकृतं चरित्रं समुदाहृतम्' (स्मृतिच० III p 23) and पितामह also says यद्यदाचर्यते येन धर्म्यं वाधर्म्यमेव वा । कुलादिदेशाचरणाच्चरित्रं तत्प्रकीर्तितम्' (स्मृतिच० III p 58)

38 A decision in a cause arrived at by the king s own intellect and not in conflict with Smrti or usages is said to be a decision by royal edict

39 These and the following verses illustrate the dictum of Nārada about the four that each succeeding one is stronger (or superior to) than each preceding one (उत्तरः पूर्वबाधकः) Vide Nār p 7 v 10 Kauṭ (p 150 text) has the same verse Where the decision is not given on the admission of the defendant or on trial by ordeal but according to the methods of proof (such as witnesses inference) laid down in dharma sastra the decision is by means of vyavahāra बृहस्पति says 'शास्त्रं केवलमाश्रित्य क्रियते यत्र निर्णयः । व्यवहारः स विज्ञेयो धर्मस्तेनापि वर्धते' (स्मृतिच० III p 24 व्य० p 12) Vide Br p 286 v 25

40 41 When a girl of a higher caste marries a male of a lower caste the progeny is called pratiloma Vide Manu X 11 41 and Yāj I 93 95.

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(*Comparative strength of dharma, vyavahāra, caritra and rājas'āsana*)

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35 Nārada (vide 31 above) spoke of vyavahāra as four-fold But what he meant is made clear by Bṛhaspati 'धर्मेण व्यवहारेण चरित्रेण नृपाज्ञया । चतुष्प्रकारोऽभिहितः संदिग्धेऽर्थे विनिर्णयः ॥' स्मृ चि III p 21 Vide Bṛ p 285 v 18 'Decision is the fourth pāda of *vyavahāra* according to Bṛ and this last can be arrived at in four ways viz by dharma, by vyavahāra, by caritra and by rājaśāsana When a person guilty of a crime (doṣa) admits his guilt (through repentance and on account of being afraid of sins) without fighting out the proceeding and when a defendant also admits in his reply his liability to pay, there the decision is said to be by dharma, as the admission is due to the desire to follow *dharma* and to the fear of *adharma* Here there is no necessity of proof, or usage or royal edict It is therefore that Bṛ says 'तत्र सत्ये स्थितो धर्मो व्यवहारस्तु साक्षिषु । चरित्रं पुस्तकरणे राजाज्ञायां तु शासनम् ॥'. This very verse occurs in Kauṭilya (p 150 text) where we read चरित्रं संग्रहे पुंसाम्

36 It is therefore that Bṛ says that decision by vyavahāra rests on witnesses, as they are the principal instrument of proof. Compare Bṛ. p 346 v 12.

conventional usages, but (in disputes) between these and others (the decision must be) in accordance with the sacred texts (dharmasastra)

48–50 Whatever conventions are settled in accordance with the consent of the (people of a) country should always be preserved in writing sealed with the royal seal Such conventions should be sedulously upheld like (the dictates of) sacred law and (the king) should decide (disputes) after considering them Whatever (trade) conventions are reduced to writing by traders as fit to be carried out, those must be given effect to and (the king) should not start anything contrary to them

51 Whatever is decided upon (once by the king) as the authoritative usage of a country and whatever he does as approved of by the vedas and smrtis though not in vogue (as a custom or convention) that should not be again reversed (by the king) he should avoid what is not in accordance with smrti rules

(*The hall of justice*)

52 That place, where the decision of the truth of the plaint (lit the cause or root of dispute) is carried on by a consideration of the (rules of the) sacred law, is (called) the Hall of Justice (dharmadhikarana)

53 54 The king having risen in the morning performed ablutions being composed in mind having shown due honour to his *guru* his astrologer, physicians, deities brāhmanas, and the family priests and having saluted the elders and the rest and being decked with fine flowers, ornaments and apparel, should enter the court room that has a pleasing appearance

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various systems of law where the parties to the litigation do not belong to the same country town or village

48 50 These principles applicable to the usages of a country and the custom of a trade also hold good in the case of the usages of a caste or family a guild or corporation &c Vide Pitāmaha च नगाद पुरश्रेणीगण [illegible] III p 58) Vide Br p 281 v 28 and Manu V 41 Verse 85 below should have been placed after these.

53 54 Vide Br p 280 verses 21 22 for the same verses

41 When a king gives a decision in accordance with such rules of conduct (i e according to usage) then *vyavahara* is overruled by *caritra*

42 Where kings consider that an usage is opposed to sacred law, there the usage is overruled by the king's command

43 Each succeeding one (out of the four viz dharma, vyavahāra, caritra and royal edict) when possessed of these characteristics overrules (each preceding one), where (each succeeding one) overrules (preceding one) in other circumstances, there justice (dharma) is destroyed

44 If a king decides (a case) by his own fiat where there is a text (of the śāstra capable of deciding it), it leads him away from heaven, it causes ruin to people, it brings danger (to the king) from the army of his enemy and it strikes down the roots (lit. the seed) of his (long) life

45 Therefore a king should decide the causes (of people) according to the rules of *sastra*, but in the absence of sacred texts, he should carry out (judicial administration) according to the usages of the country (lit the views of the country)

46. Whatever course of conduct is in vogue in a country, is of long duration and is not opposed to the vedas and smṛtis, is said to be the usage of the country

47 (In disputes) between the residents of the same country or the same capital or the same hamlet of cowherds and of the same town or village, (the decision should be) by their own

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For the idea in these verses compare बृहस्पति 'देशस्थित्यानुमानेन नैगमानुमतेन वा । क्रियते निर्णयस्तत्र व्यवहारस्तु बाध्यते ॥ (स्मृतिच० III 25 वीर ? p 12 and Br p 237 v 26)

42 Where usages are opposed to smṛti and it is likely that enforcing them would engender discontent and commotion among the people the king s command may supersede such usages It is therefore that in verse 135 below a pla nt which s opposed to the interest of the nation is said to fail

43 Narada s dictum (उत्तर पूर्वबाधक) quoted on verse 39 is not a universal rule It is rather an exception Th s is made clear by th s verse tha where judic al procedure can properly be carried out or where there are local usages (not opposed to the country s interest &c) the king cannot interfere by an edict

45 Compare Manu 8 3

47 This lays down the rule of decision in case of the conflict of

conventional usages but (in disputes) between these and others (the decision must be) in accordance with the sacred texts (dharmaśastra)

48-50 Whatever conventions are settled in accordance with the consent of the (people of a) country should always be preserved in writing sealed with the royal seal Such conventions should be sedulously upheld like (the dictates of) sacred law and (the king) should decide (disputes) after considering them Whatever (trade) conventions are reduced to writing by traders as fit to be carried out, those must be given effect to and (the king) should not start anything contrary to them

51 Whatever is decided upon (once by the king) as the authoritative usage of a country and whatever he does as approved of by the vedas and smrtis though not in vogue (as a custom or convention) that should not be again reversed (by the king), he should avoid what is not in accordance with smrti rules

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various systems of law where the part es to the litigat on do not belong to the same country town or v llage

48 50 These pr nciples appl cable to the usages of a country and the custom of a trade also hold good in the case of the usages of a caste or fam ly a gu ld or corporat on &c Vide Pitāmaha [illegible] III p 58) Vide Br p 287 v 28 and Manu ˢ 41 Verse 85 be ow should have been placed after these.

53 54 Vide Br p 280 verses 1 2 for the same verses

55 The king dressed in a simple (subdued, not gaudy) manner, having gone to the court room and being composed in mind, should look into the causes of litigants while sitting or standing facing the east along with persons learned in the three vedas, elders and councillors well versed in statecraft

56 The king who looks (into causes) according to the sacred law along with the judge, the ministers, the brāhmaṇas, the family priest and the assessors (sabhyas) attains heaven

57–59 (The court room) should be presided over by incorruptible and diligent assessors (sabhyas) by wise brāhmaṇas who are (perform the work) hereditary, who are well versed in the meaning of sacred texts and the science of politics by a few merchants who form a group (or guild), who are men of high family, character well advanced in years, are endowed with good conduct and wealth and are free from malice In that (court room) merchants are to be appointed to listen (to the cause) and to look to the administration of justice

(*Time of holding the court*)

60 The king, who strikes down his enemies, should decide the causes in the court room in the first half of the day according to the course laid down in the sacred texts (śāstra)

61 Those three parts of the day after omitting the (first) eighth part of the day are declared to be the best time

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55 Compare Manu 8 1 2 Kul explains that the king may decide while standing if the matter is simple or slight The Vy Māt explains that the king's attire should be simple as otherwise the parties might be dazzled by his splendour and might forget what they had to say Compare Br p 250 v 20

57 59 The Mit notices that there is a distinction between sabhyas and brāhmaṇas the former are specially appointed by the king the latter are not The Mit says that according to Manu 8 10–11 the sabhyas were to be three while according to Br they were to be 7 5 or 3 Vide Br p 278 v 11 Vide Yāj II 2 for qualifications of sabhyas The Vir explains कुलवृद्धै as old The merchants are to be other than the sabhyas and were to be associated with the judge and sabhyas according to Mit for placating the populace

61 The whole day (of 30 ghatikas or 12 hours) is to be divided into 8 parts then the first part (or 1½ hours) is to be set apart (for daily duties of bath worship &c) and the three parts (4½ hours) up to noon were to be devoted to hearing the causes Kaut (text p 37 and tr p 42)

for (looking into) disputes according to the sacred texts

62. The three parts of the day after the first eighth part are recognised in the śāstra by the wise as the time for (administration of) justice

(*The judge*)

63–64 When the king cannot himself decide the causes (of litigants), then he should appoint thereto (in the court) a brahmana learned in the various śastras, who is vigilant and well born who is impartial, who does not cause disgust to the people, who is steady (or incorruptible) who is afraid of the next world, most devoted to observance of śāstric rules of conduct assiduous and free from irascibility

65 The king should appoint for (deciding) disputes (a judge) who is not cruel who is sweet tempered kind, who is hereditary clever energetic and not greedy

66 One who has studied only a single branch of learning would not know how to decide causes therefore kings should appoint for (deciding) disputes one who knows many śāstras as the best person

67 Where a brāhmana (endowed with the qualities enumerated) cannot be had (the king) should appoint a Kṣatriya or a Vaiśya proficient in the sacred law, but he (the king) should carefully avoid a śudra (as a judge)

68. Whatever is done by others (as judges) than these must be regarded as done wrongly, even if they be officers (of the king) and even if by chance it is done (the decision is) according to the sacred texts

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divides the king's day into eight parts but assigns only the 2nd part and not 3rd and 4th also as in Kāt) for looking into the causes of citizens and of people in the country

62 This means the same thing as the preceding It is unlikely that the original Kātyāyana contained both verses Both are well authenticated so they probably represent two versions of the same verse

63 Compare Manu 8 9 and Yāj II 3

65 Read क्रमायात for क्रम यात in the text

67 Compare Manu 8 20

68 The jurisdiction to decide cases rests with judges and sabhyas who belong to the brāhmaṇa and the two other castes If one who is not appointed a judge but is an officer of the army were to decide a dispute even according to śāstra that would be a decision without jurisdiction and so a nullity just as in modern times if a court having no jurisdiction at all over the matter in dispute were to decide it the decision would be a mere nullity even if on merits the decision may be found to be right

69 It is settled that one who asks questions with reference to the matter in dispute is a '*prāḍ*' (a questioner), he, who distinguishes in that (dispute as to what party is in the right) is thence called ' prāḍvivāka' (a judge)

70 If the judge were to hold conversation in private with a party while the matter (in dispute) is undecided he becomes liable to be punished and also particularly the assessors (if they do the same).

(*The Members of the Court*)

71 The best of brāhmanas who are not avaricious who possess wealth, who know the sacred law, who (always) speak the truth and are proficient in all śāstras should be made *sabhyas* (assessors)

72 Where the *sabhyas* decide (a matter) in violation of the sacred law there *dharma* (justice) being overcome by *adharma* (injustice) does undoubtedly destroy (the king).

73 Where justice is slain by injustice and where truth is strangled by untruth while the sabhyas look on (with apathy), there the sabhyas (members of the court)are themselves destroyed

74 The members of the court should not connive at the king when he begins to act unjustly , if they do so, they along with the king fall headlong into hell

75 Those members of the court who follow (approve of) the king who proceeds in an unjust manner, also become participators therein (i e in the sin due to unjust decision), therefore the king should be awakened by them (to the right course)

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69 This gives the etymology of the word प्राड्विवाक The judge asks the plaintiff what his case is and the defendant what his reply is and then finds out which of them is in the right Therefore प्राड्विवाक is a compound of two words प्राड् (from प्रच्छ् to ask) and विवाक (from वच् with वि) It seems better to derive विवाक from वच् with वि as the Vy Mit does in the alternative [illegible] Compare Br p 2 8 v 12 for derivation

71 Compare Br p 79 v 13, Nār p 37 verses 4 5

73 This is the same as Manu 8. 14 and Nār ads ([illegible] 8) So it is likely that Katyāyana embodied such a popular verse in his work.

75- 6 There is no contradiction in these verses The latter says that the sabhya should not then and there oppose the king's desire but should at the moment mollify the king while the former says that gradually the

76 Coming to know that the mind of the king is straying from the path of justice, a member of the court should then say what is agreeable (to the king), (by so doing) the sabhya would not incur sin

77 A member of the court must certainly speak out words (decision) that are in accordance with the sacred law and the science of statecraft If the king does not listen (to the advice of the sabhya) the sabhya would then be free from sin

78 When a king directs (the judge or member of the court) to do injustice to (to give a wrong decision in the case of) disputants then a member of the court should beseech the king (*that his order will lead to injustice*) and should turn him away from wrong doing

79 When a sabhya decides wrongly through affection, ignorance greed or infatuation he should be punished for he is in that case declared to be not a sabhya (*i e unworthy to be a member of the court*)

80 After correctly understanding how to decide the cause, a member of the court should announce (his decision) he should not announce (his decision) otherwise (i e without understanding), if he does so he is liable to a fine double (of what the defeated party in a cause has to pay)

81 Whatever loss is caused (to a litigant) through the fault of the sabhya the latter should be ordered to make it good, but (the king) should not disturb the decision of the matter in dispute between litigants

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king should be brought round to see the right path The reading (in 75) बोधनीय रन्नेप ' (the king should be gradually awakened to his duty) is therefore preferable

77 Compare Nār p 37 verse 7 and p 39 v 15 and Manu 8 19

79 80 Compare Nār p 22 v 67 and Yāj II 4 The Mit on Yāj II 4 explains in this way The words liable to a double fine do not mean double of the matter in dispute since in certain cases (such as rape abduction &c) the matter in dispute is incapable of valuation

81 This applies where after a decision is pronounced it is found that a wrong decision was given by a corrupt assessor In such a case the decision stands but the erring assessor has to make good the loss occasioned by his decision

(Gradation among those who decide causes)

82 Family council corporations assemblies one appointed (as a judge) and the king , these have the responsibility in (deciding) disputes Each succeeding one out of these is superior to (each preceding one)

83 The king should investigate the causes of ascetics by those learned in the three Vedas only and also of those who are adepts in jugglery and in yogic practices and should not investigate them himself for fear that he may rouse their anger (against himself)

84 (The king) should give advice (admonition) to those who are of high caste and character, and to his *gurus*, teachers and ascetics through one who is endowed with true knowledge (and not himself directly)

85 That is called family usage which has come down hereditarily in a family as the *dharma* to be observed (by members of that family), (the king) should preserve it (intact)

(Method of questioning the plaintiff)

86 88 (The king or judge) should question the litigant (who approaches) at the proper time (of the court), who bows (to the king or judge) and who stands before him ' what is your grievance, what is the injury done to you, don't

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82 Vy Mat ascribes this verse to Manu also. It is not found in Manu It is Nar I 7 (vide p 6) Yaj II 30 is a similar verse where the word pūga is used in place of gaṇa Kula or family gatherings are explained by the Mit as groups of agnatic and cognatic relatives while Vy Mat explains as 'the family of the parties Mit explains śreṇi as associations of persons following one trade whether they belong to the same caste or not (such as weavers betel nut sellers &c) while Vy. Mat explains as associations of artisans and traders etc gaṇa means assembly of brāhmaṇas etc according to Vy Mat and pūga means according to Mit. assemblies of persons residing in one village or city though of different castes and professions All these are like modern pancāyats Compare Bṛ p 281 verses 28-30

83 Compare Bṛ p 131 v 2? for a similar rule This verse occurs in Kauṭ text p 39

84 Separate as मपक्ष उपश्य

86 88 The words [illegible] and [illegible] respectively refer to civil and criminal matters Vir p 52 explains that if the plaintiff were to reply that defendant does not return a debt given to him by the plaintiff in a former life it is not a cause that can be entertained 'The seal means

be afraid, speak out, man !' The (judge) presiding in the court should ask ' by whom, where, at what time and why (was the grievance or injury caused) When thus asked whatever he replies should be considered (by the judge) with the assessors and the brāhmaṇas and if the cause be judicially entertainable, then he (the judge) should deliver the (court) seal to the plaintiff for calling (the defendant) or he should order the (court's) officer (to call the defendant)

(Substitutes or recognised agents of parties)

89 90 A person though other (than the defendant,) if put forward by the defendant before the judge (as defendant) should be regarded as the defendant and he also who is accepted (by the plaintiff) himself (as the defendant) It is the right of the person charged (to give a reply) and not of another person, since the latter is unconnected (with the dispute) (but) even a stranger may be allowed (to have the right to defend) if he is put forward (as the defendant) by the person charged (by the plaintiff)

91 For whomsoever a man carries on a dispute (in a law court) whether the latter be appointed by the plaintiff or deputed by the defendant, the victory or defeat belongs to the former (and not to the representative)

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probably a sealed order of summons The court's officer (or bailiff) was called sādhyapāla Vide व्यास quoted in स्मृतिच० (III 29) साध्यपालस्तु कर्तव्यो राज्ञा साध्यस्य साधक । क्रमायातो दृढ शूद्र सभ्यानां च मते स्थित ॥ and Br p 279 v 15 which says that he was to be appointed to summon parties and witnesses and to keep them in custody (when necessary) For the last verse, compare बृहस्पति ' यस्याभियोग कुरुते तत्त्वेनाशङ्कयापि वा । तमेवाह्वायये द्राजा मुद्रया पुरुषेण वा ॥ ' स रि p 79 and स्मृतिच० III p 72.

89 90 See Order III of the Civil Procedure Code on recognized agents some of the provisions of which are very similar to the following verses The general rule is contained in the first half of verse 90 viz. defendant must answer the plaintiff in person to this three exceptions are allowed defendant may send some one as his deputy (2nd half of 90) the defendant charged by the plaintiff may put forward another person as the defendant or the plaintiff may accept as the defendant another person These verses and verse 92 forbid what is called in England champerty and maintenance

91 This is the same as Nār p 29 verse 23 The appointment may be due to illness or incapacity to argue one's case This verse contains the germs of the modern profession of pleaders

92 Slaves menials pupils, persons deputed, and relative, these should not be punished when they speak (on behalf of another, their master etc.), any one other than these (if meddling in litigation) deserves punishment.

93 95 A representative (of plaintiff or defendant) is not allowed in (charges of) brahmana murder, drinking wine, theft sexual intercourse with the wife of an elder (incest) and in other grave sins A representative should not be given in man slaughter, theft, indecent assault on another's wife, eating forbidden food, kidnapping of a maiden and intercourse with her, harshness (vakparusya and dandaparusya), counterfeiting coins and measures and also in sedition, but the man himself (the plaintiff or defendant) should engage in the dispute

(Summons)

96 The king should not summon to appear in person those who are intent upon (engrossed in) performing religious rites for securing (heavenly) reward, persons who are ill, idiots who are not at ease (owing to calamities), who are under the influence of intoxicants who are raving, who are despondent and women

97 (The king should not summon) a young woman whose family is dilapidated, a lady of good family, a woman who is recently delivered a maiden who is of a higher caste than the claimant, (since) these are declared to be under the tutelage of their kinsmen

98 Summoning (in person) is allowed in the case of those women on whom the family depends women who are

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92 Compare Nār p 19 verse 23

93-95 The reading of Vy Māt would mean in mutual disputes between sanghas (religious or other associations) The Sm C reads 'in other disputes of a coarse kind and says that verses 94 95 illustrate what are such disputes Vide Vi 34 1 for atipātakas

95 For the meaning of अभ्युदय compare वैशेषिकसूत्र यतोऽभ्युदयनि-श्रेयससिद्धि स धर्म

96. Sm C says that women who are dependent are meant here Compare with this and the next Nār pp 18-19 verses 52-54 and Br p 233 v 34 The principle underlying verses 96 and 97 in regard to summoning women has been followed in sec 132 of the Civil Procedure Code (Act V of 1908)

unchaste, courtezans women without family and degraded women

99 A person who asserts his claim with arms in hand, without wearing an upper garment, with hair dishevelled, sitting down on a seat or with his left hand, should be fined

100 He, who when summoned, disregards the king's order (to appear before the court) though able to do so, should be fined by the king according to the method laid down in the (smṛti) injunction

101 The fine should be fifty (paṇas) in the case of slight causes (when the defendant does not appear though summoned) two hundred as the minimum in the case of middling ones and in the case of heavy causes the fine should always be 500 (paṇas) at least

102 Whatever figure is put down as the fine for any wrong must be understood as referring to paṇas (to be paid to the king) or their equivalent price

(Restraint or arrest)

103 He who through bad disposition causes injury or does not give what he is bound to give to one who requests him to do so should be dragged (before the court) by the king's order

104 105 After informing the king of the cause (matter in dispute) and when the matt r affirmed (in the plaint) is beyond doubt he (the claimant) should employ restraint (of the

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99 A claimant must approach the court in a decent manner This verse is an expansion of the word प्रणत in verse 86 above

101 Apar explains that these are copper paṇas

10? The read ng śaktitah is better and means according to the ability of the person fined

103 Injury refers to cr minal matters and *deyam* stands for a ll c vil d sputes

104 Vir expla ns that when it is apprehended that some time would elapse before t e si mmons from the k ng cou d be served on the defendant the pla ntiff sho ld keep under restra nt or arres (called Āsedha in Sanskr t) the defe da t C mpare Nā p 17 v 4 Āse ha (which means arrest or restra nt by king s order accord ng to Mit.) according to Nār (p 17 v 8) was of four k nds when the defendant is told don t go away even a step from th s place till the decision it is local restraint (स्थानासेध) when he is told you must present your

defendant) till the arrival of the summons One who deserves to be arrested should be punished, if he breaks (the restraint) when he is arrested

106 That man who restrains (the defendant) so as to prevent him from exercising his limbs or from talking and breathing freely, when the defendant does not deserve to be (so restrained) should be punished and not the (defendant) who breaks such restraint

107-108 Those who have climbed up trees and mountains, those who are seated on elephants, horses, chariots and in boats and those who are under difficulties— all these should not be arrested by those (plaintiffs) who want to establish their claims, so also those who are afflicted with disease those who are overwhelmed by calamities, those who are engaged in sacrifices those who have not come out (of the litigation in which they are already engaged) the intoxicated, the lunatic and the idiot – these should not be arrested

109 A husbandman (should) not be arrested at the time of the sowing season nor a soldier at the time of (the marching of) the army, nor one who has gone after having promised (to return) nor should one who has fixed a time (for his appearance) be arrested in the interval (i e before that time)

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self on the 5th day of the month (Sm c) or 'you must not do a certain thing for a certain time (Vir) it was temporary restraint (कालाक्षेप), when told ' dont go on a journey till the decision ' it is restraint of journey (प्रवासात् आसेध) when told dont do such and such an act e g exposing an article for sale (Sm C) or dont do this or that act such as taking a bath &c (Vir) it is restraint as to actions (कर्मण आसेध) If he disregarded these restraints he was liable to be punished It will be noticed that ' āsedha included several modern processes such as attachment or arrest before judgment (section 94 and Order 38 of the Civil Pro Code) or temporary injunction (Order 39 of the Civil Procedure Code)

107-108 Compare Nar pp 18-19 verses 52 54, Br p 283 verses 36 37

108 'Those who have not come out &c' — Compare Yaj II 9 'अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत् । अभियुक्तं च नान्येन नोक्तं विप्रकृतिं नयेत् ॥' and Nar p. 19 v 55 and Kaut. (text p 149 'न चाभियुक्तोऽभियुञ्जीत) Compare sec 135 (2) of the Civil Procedure Code as to freedom of parties their agents and witnesses from arrest while attending or going to and returning from a tribunal)

110 When the husbandman is ready to reap the crop so also when the rainy season approaches, (the plaintiff) should not make (the defendant) engage in the dispute from the beginning (of the sowing of seeds) to the gathering (in of the crops) If (the plaintiff) arrests one who should not be arrested the fixed rule is that he should be punished by the king

111 The defendant when restrained by order of the king should stay (i e should not break the order of arrest) and the wise say that (when he is so arrested) others should not attack him (by another suit)

112-113 The king should make the plaintiff give as much subsistence (l t boiled rice) to the messenger after the cause is finished as is required for a day or two (that he spent in summoning and guarding the defendant &c) having regard to the time and place Those who know the essence (of dharma) recognise that the subsistence (lit food) due to the summoner in all cases depends upon the time, the place, the age (of the summoner) and the abl ty (of the parties)

(*Persons not acceptable as sureties*)

114 116 The master an enemy, one authorised by the master one who is under arrest one fined those who are accus ed (of grave sins) one who is a sharer in family property, an indigent person those who are under a vow of perpetual studenthood one who is appointed on the kings business, those

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109 110 Compare Br p 288 verses 36 37

112-113 Compare Kaut (text p 149) who says that 'the wages for the puruṣa are one-eighth (of the fine or matter in d spute) that the subs stence on the way (for witnesses) depends on the value of the matter in dispute and that both these should be paid by the party that is chastised by the king The last means that the costs of the su t fall on the defeated party Dr Sham Shastry s translation (p. 190) 'fees for w tnesses shall cover $\frac{1}{8}$ of the amount' is not correct, as 'puruṣa does not mean witness but bailiff Vide notes on verses 86 88 above

114 116 'Sans ayastha is expla ned as abh s asta wh ch is explained by Haradatta as one gu lty of the grave sins enumerated in Āpastamba dharmasutra I 7 21 8 rikthi means one who has a share in ancestral wealth such as a brother atyantavāsinah ' is ex plained by the M t as naisth kabrahmacārinah ' The Vir p 58 says that the Madanaratna read anyatra vas nah which it explained as

who are ascetics (sannyāsins), one who is unable to pay (the money due or amount in dispute) to the creditor (or successful party) and fine equal to that (the amount in dispute) to the king one whose father is living so also one who incites (the party from whom surety is demanded), one whose antecedents are not known these should not be accepted as sureties

117 If there be no surety given by the plaintiff who has a proper cause for dispute, he should be guarded and should give to the messenger (the person who keeps guard over him) wages at the end of the day

118 A person belonging to the three higher castes if without a surety should be (confined) guarded by (warders) who stand outside (the lock up), but (the king) should keep Sudras and others confined and fettered (if they cannot give sureties)

119 If he (person without surety) breaks (the restraint) and runs away he should be fined eight paṇas but in the case of persons of all castes there should be no obstruction to the performance of (daily) obligatory actions (or duties such as bathing, worshipping, sandhyā prayers &c)

120 The king should not allow a litigant to proceed with the litigation if he retains the property or money which he has (been shown to have) seized it should be delivered

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dwelling in a different country Yāj I 10 lays down that the judge should require both parties to give a surety who would be able to pay the decretal amount and the fine that the defeated party would have to pay to the king (उभय प्रतिभुवं ग्राह्य समर्थ कार्यनिर्णये) These verses enumerate those who are not proper sureties

117 The reading yogyastu vādinah would be preferable (meaning ' for the two parties a surety who is a fit one in relation to the matter in dispute) but it is doubtful whether it is the original reading

120 Read grhīta ' for grahīta in the text According to the Sm C this verse applies to a litigant who is shown to have seized upon the property in dispute in such a case he should be made to hand it over to the other party if the latter is worthy of being entrusted with it or it should be handed over to a third party Here we have the germ of the appointment of a receiver under Order 40 of the Civil Procedure Code The Vy Mat reads ' yāyo ... nvāre ' and explains differently grahana means property pledged or mortgaged ' If a creditor sues for recovery of money charged on some

over to the other litigant or should be kept with a third person (as receiver)

(The order in which plaintiff and defendant are to address)

121 The plaintiff (lit the attacker) should first affirm (his case) and then the defendant (the person attacked) When they both have finished, the members of the court (the sabhyas) and after them the judge (should speak)

122 123 Whoever has suffered greater injury or whose matter is more important should have the position of the plaintiff and not he who first informs (the court) Whoever suffers greater loss of wealth or greater bodily injury should be given the position of the plaintiff and not he who first informs (the court)

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property the suit should not be proceeded with as long as he retains the property hypothecated the property should be first returned to the debtor defendant (if he is worthy of trust) or should be kept with a receiver The words of Vy Mat are प्र थ व धकृ तन् द स्मिन्नव नमवर्णाय यदसे प्रत्यायत । असत्यवतु मध्यस्थे रथ पन यम् स्वयमत चावन समुपस्थित वान् प्रत्यर्थि विषयम् What follows these words is not quite clear

121 The plaintiff's affirmation is called pratijña or purvapaksa and the defendant's uttara ? The order in the case of sabhyas and judge does not apply to the preliminary questions they put to the plaintiff but only to their deliberations after they have heard the parties viz to kriya and nirnaya

122 This verse states an exception to the rule contained in 121 The general rule is that he who first approaches the court with his complaint is the plaintiff and *dominus litis* Compare Nār आज्ञा लङ्घ पहर शासन वा आ य पत्र विक्रयी वा क्रया वा । राज्ञ कुर्यात्पूर्वमावेद्न यस्तस्य स्यु पूर्ववक्षो वदिव ॥ Dr Jolly (Nar p 34 v 38) is wrong in translating is known as defendant (it should be as plaintiff). Where both parties are in the position of plaintiff and defendant (because both make a claim against each other as in a partition suit) Br lays down the rule that where groups of persons come together claiming to be heard first then the position of being first heard should be given according to the order of castes or after looking to the gravity of the injury or loss of each (vide Br p 290 v 4) Vide Manu 8 24 for the proposition that the causes of litigants should be investigated in the order of the four varnas Vide Vir p 61 for elaborate rules. First rule is that he who comes first should be heard first The second is that if several persons come at the same time precedence is governed by the order of castes Where the injury is greatest that case should be heard first irrespective of caste or time of coming Time of coming to court is followed when caste is same.

(*Characteristics of a plaint*)

124-126 The plaint should be presented after putting down the period (of the transaction in dispute with reference to the king then reigning), the year, the month, the fortnight (bright or dark), the *tithi* (lunar day), the time (of enjoyment of the matter in dispute), the location (of the land &c) the country, the place (village &c), the caste or species, the position of the body (or limbs), the age (childhood, youth &c), the dimensions or measurements of the thing sought to be recovered (by suit), the material (*dravya*, in dispute), the amount (of money &c in dispute), plaintiff's own name, the names of the kings (of the country) in order, the dwelling place (address), the name (or description) of the thing claimed (i e the relief claimed), the names in order of ancestors (father, grandfather &c of both parties), the injury or loss (caused by the defendant), the person who got (the property by gift or sale &c) and the donor (or transferor), the reasons why the plaintiff submitted (to the enjoyment of his property by the defendant for a time) and other (necessary) details

127-128 In disputes about immoveable property (the plaintiff) should set out (in the plaint) the following ten (details) viz, the country, the place (village &c), the situation (boundaries of the field &c, or the figure) the caste, the name, the dwelling-place (of the parties), the measure, the name of the field, the father and grandfather (of the parties) enumeration of the former kings

124 126 These verses are an elaboration of similar verses of Br ' उपस्थिते दत्तस्तस्मिन् वादी पक्षं प्रकल्पयेत्। निरवद्यं सप्रतिज्ञं प्रमाणागमसंयुतम्। देशस्थान समामासपक्षाहर्जाति नाम च । द्रव्यं सङ्ख्योदयं पीडां क्षमालिङ्गं च लेखयेत्' ॥ स्मृ मा p 294 and स्मृ चिं III p 81 Vide Yāj II 6 and V M (text p 12) for a similar quotation from another smiti Compare Civil Pro Code Order VII rules 1-3 and 6 setting out contents of the plaint All the above need not occur in each plaint, but they must be stated according to the facts of each case

127 128 ' Measure' means ' so many *nivartanas* in extent (or acres as in modern times).

129 Whatever (the pla ntiff) be ng inflamed by any one of the pass ons such as lust speaks before the court should all be reduced to writing on a wooden board or some similar material with the word yes

130–131 He (the pla nt ff) should delete superfluous (or unnecessary) matters (from the pla nt) and should fill in gaps He can set forth on the floor (add t onal matters or delete them) till the (form of) the plaint is finally fixed The judge should have the plaint written down on a board with chalk as narrated naturally (by the plaint ff) and then on a leaf (or paper) when it is corrected

132 He (the scribe) who writes down the words of the plaint ff or the defendant d fferently from what they narrate should be punished as a thief by the king who des res to enforce *dharma*

133. He (the plaintiff) should get (time for sett ng out his plaint) till it can be drawn out of him or for three or seven

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129 Rāgād nām refers to rāga (sexual des re) krodha (wrath or anger) and and lobha (greed) or as Sar says to rāga (partial ty or love) dveṣa (hatred) lobha and moha Karaṇa means adhikaraṇa (hall of justice) Th s rule requ res the scribe of the court to put down in writing whatever spec ally important c rcumstance a pla nt ff lets out in a moment of pass on An nstance n po nt is the remark of the Śakāra in the Mṛcchakaṭ ka where he adds na mayā Th s verse s also the same as Nār (p 27 v 18

130 131 These verses prov de for the amendment or strik ng out of unnecessary embarrass ng or scandalous matters from the pla nt Compare C vil Pro Code, Order VI rules 5 16 17 The word bhūmau also includes wooden board etc on wh ch the plaint is written At first the plaint should be wr tten on the ground or a board as a draft and after amendments and strik ng out the final plaint is to be inscribed as a court document on b rch bark or palm leaf or paper Compare Bṛ p 292 verses 14–15 Amendments were to be allowed unt l the defendant filed h s reply V de Nār p 23 v 7 Narrated na ura ly means 'w thout fear or pressure from the judge or assessors etc

133 This and 135 conta n ex eptions to the general rule that plaintiff should get no t me from the court to set out h s pla nt s nce the pla ntiff comes to court after well cons der ng the streng h of h s case and de er m ned to prosecute it compare नारद सुने ... (quoted n ... p 290) and Nār p 24 v 1 ... also says ... (p 148) Sollekhanam

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days so that the man who wants to narrate his dispute collects his wits.

134 Since he (the plaintiff) makes his resolve (to file the suit) a long time after the cause of action arises, therefore he does not get time (after coming to the court), but the opponent gets time (to file his reply)

135 Where in a suit the wits of the plaintiff or defendant desirous of (prosecuting) his claim forsake him, there time should be granted to both plaintiff and defendant

(Defects of a plaint)

136 The plaint that is opposed to (the interests or usages of) the country that is prohibited by the king, that contains a mixture of several titles of law, does not succeed (i e must be rejected as bad).

137. A king, from a desire to find out the truth, should certainly entertain even such a cause as contains many pro-

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makes no clear sense So it would be better to read 'श्वो लेखन' (meaning writing down the next day Nārada has the verse 'श्वो लेखनं वा स लभेद् त्र्यहं सप्ताहमेव वा । अर्थ तूनत्यये दे तु युक्त सद्यो भ्रू जयं ॥' (vide Nār p 24 v 3) But the first half of that verse in the context refers to the defendant s getting time

134 The Vy Māt (p 290) says that Kāt here simply explains the two words सुविस्तरनाथ न and 'तत्क्षणादिनिश्चय' in Nār., quoted under the last verse wh ch are adjectives (qualifying the noun plaintiff) that contain the reason why plaintiff after he comes to court should be allowed no adjournment to present his plaint

136 Compare Bṛ p 291 v 12 and Nār p 26 v 12 Apar says that a k ng s order in my kingdom there should be no deal ng in rupees is an example of what is proh bited A pla nt saying defendant stole my gold, I deposited a thousand dr immas with him, he sold a cow to me without being its owner is an example where several *padas* (titles of law) viz steya nikṣepa and asvāmi vikraya are mixed up Th s would cause confusion if they were to be all invest gated at the same time as the ev dence in each case and the burden of proof would vary Therefore these several titles should be investigated at different times Vide Civil Pro Code order II rules 4 and 6 The words bhāṣā 'pakṣa and 'pratijñā mean the same th ng as the Mit on Yāj II 6 says

137 This rule is not opposed to the preced ng It can be explained in two ways If several causes of act on (such as recovery of debt deposit sale w thout ownership) are m xed up in a plaint the king may accept it and investigate them at d fferent t mes Or the verse may mean that the cause of action (such as ṛṇādāna) may be the same but the several

positions and as is stated definitely so far as judicial requirements are concerned

138 That plaint is regarded as unacceptable which lacks (the mention of) the time and place (of the cause of action) that omits the (statement of the) material (dravya) claimed or the amount and that is wanting in the dimensions of the thing claimed

139 The plaint of that man who does not write down that the opponent does not wish to do what is just or that he does what is unlawful does not stand (or bear fruit)

140 He (the king) should abandon (not entertain) a plaint as vitiated that contains an unknown (or imaginary) grievance, that discloses no injury, that contains letters making

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items in it may be different and so the reliefs may be different (e g as Apar says a plaint may assert that defendant borrowed a hundred gold coins in Benares purchased a year afterwards some cloth and then in another place purchased cows or corn) Such a plaint is not bad

138 Compare Nār p 26 v 11

140 The Vy Māt (p 29) notes that Bṛ had almost this very verse (Bṛ read sadoṣam ca for nirābādham and pakṣam rājā v varjayet) and quotes five verses from Bṛ to explain these six There is no agreement among the writers on the meaning and examples of these According to Apar and Mit the example of aprasiddha is my hare's horn has been taken away by the defendant while according to Bṛhaspati aprasiddha is that grievance which was never asserted by anybody and the Vir notices this example and says that it would be an example of asādhya according to Bṛ and gives defendant stole my field drawn by a thousand ploughs as a proper example The Vy Māt criticizes this and the other examples given by the Mit and Apar as opposed to śāstra An example of disclosing no injury is defendant carries on his work by the light of the lamp in my house According to Mit and Apar a plaint containing the letters ka ca ṭa ta pa is incoherent Bṛ gives two meanings of nirartha viz where the injury is so slight that no man of ordinary temper would complain about it (compare sec 95 of the Indian Penal Code) and the example would be he looked at me with a smile Another meaning is a plaint that contains no information that can be brought under the fourteen titles of law beginning with ṛṇādāna that are based on money (i e civil actions) An example of niṣprayojana is he sings sweetly near my house Bṛ accepts this meaning and gives another viz a plaint which does not contain information that can be brought under any of the four criminal titles of law (such as pāruṣya sāhasa &c) An example of asādhya, according to Mit is I was ridiculed by Devadatta with the knitting of his brows Wis

no coherent sense, that gives no cause of action, that is in capable of proof and that is self contradictory.

141. Those cognisant of (the true nature of) a plaint declare that to be a proper plaint which is free from the faults of a declaration, which is capable of proof, possessed of good reasons, definite and not self-contradictory.

142. (The plaint should be) concise in words, abounding in meaning (contents), unambiguous, not self-contradictory, free from arguments that would defeat it and capable of refuting opposite arguments.

143 When the plaintiff presents a plaint as described above, then the defendant should give his reply corresponding to the (contents of the) plaint.

144 If a statement, being asserted by the plaintiff in the hearing of the defendant, is not traversed (by the defendant) or if the defendant remains silent when he should have given (a reply), it (should be held by the court that it) is admitted (by the defendant).

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nesses can hardly be found to prove this nor can there be any writing and as it is a slight matter ordeals are inappropriate According to Br. 'hare's horn is stolen' would be an example of 'asādhya' An example of 'self contradictory' would be 'I was cursed by the dumb man', while Br explains 'viruddha' to mean 'opposed to the interests of the country, the capital or the king

141 The Vy Māt has a lengthy disquisition on this verse, particularly on the first half In Sanskrit logic pratijñā, pakṣa, and sādhya are words sharply distinguished from each other, while here in this verse they appear to be practically identical Vide my notes on V M p 26 Nārada declares 'pratijñā' to be the essence of all judicial proceedings (Nār. p 6 v 6) If the plaintiff changes his pleading, he loses, similarly his assertions in the plaint must not be opposed to common experience or pratyakṣa or self-contradictory The faults of pratijñā are enumerated in Vy Māt as follows . प्रतिज्ञादूषणानि च परस्परविरुद्धार्थपदप्रयोग-प्रतिज्ञान्तरकरण-प्रतिज्ञाहान-प्रतिज्ञासन्न्यासाश्रयासिद्ध-धर्मिग्राहकप्रमाणविरोध-स्ववचनविरोध-धर्मान्तरग्राहकप्रमाणबाधितत्वादीनि । 'प्रतिज्ञादोषनिर्मुक्तं...' इति (p 292) The words 'capable of &c.) mean that the plaint should anticipate such pleas as limitation, res judicata and state how they would not affect him.

142 Compare Civil Pro Code, order VI rules 1 and 2

143 Compare Nār p. 24 v 2 and Yāj II. 7 and Br p 290, v. 7.

144 Compare Civil Pro Code Order VIII rule 5

(Whether the defendant's reply must be given at once or after some time)

145 If after hearing the matter (the plaint) consigned to writing the defendant for some (proper) reason requests for time in the suit it should certainly be given to him

146 (The reply should be given) at once or in one day or three or five days according to the importance (of the matter in dispute) He (the defendant) should get three fortnights or a week in (suits for recovery of) debts and similar causes

147 The king should grant little or long time to the defendant looking to the time (of the transaction in dispute), the capacity (of the parties) and the gravity or slightness of the causes

148 Time should be granted (to the defendant to file his reply) viz. a day a month or a fortnight or a season (two months) or even a year or even beyond that according to the requirements of the importance or otherwise of the cause

149 Where the value (of the thing in dispute) would deteriorate or there would be destruction or loss (of the thing) there no time should be given (for a reply) since the matter is urgent (lit. ending in total loss)

150 151 In (disputes about) cows bulls fields women marriage deposit loans (of things for use) gifts purchase and sale violating a maiden theft quarrels (pārusya) wrongs attended with force treasure deceit perjury (the king) should make (the defendant) reply at once

152 (The king) should make (the defendant) reply quickly even at an unusual time in disputes about crimes attended with force theft pārusya (abuse assault and battery) cows accusations (of having committed grave sins) urgent matters land (Thus says) Brhaspati

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147 Verses 154 155 explain what time to file a reply is to be granted in accordance with the time of the transaction in dispute while verses 156 153 refer to time given according to capacity and verse 148 determines the time according to gravity of the cause

148 Compare Br p 293 v 6

149 For the meaning of ātyayika compare atyaye below in verse 152

152 Compare Yāj II 12 and Nār p 17 v 40 for a very similar verse. Atyaya means loss of life or destruction of the thing in dispute At an unusual time means even at night.

153 As regards causes (or transactions) that arise at once the king (or judge) should make (the defendant) file his reply at once or he may give time to the defendant in causes which arose a long time ago

154–156 When the transaction is recent (the reply must be made) at once when it is a month old a day may be granted (for filing the reply) when it is six years old three days when it is twelve years old seven days may be given, when twenty years old he (the defendant) should get (a delay of) twenty days or half a month when thirty years old a month beyond that (i e when more than 30 years old) the time may be three fortnights or (the king) may himself grant as he wishes any time short of one year (he may grant) a year to those who are idiots or lunatics or overwhelmed with disease

157–158 Where (the defendant) has gone to another land or if the whereabouts of the subject-matter (of dispute) are not known or the vendor of a thing or the witnesses are staying in a foreign land then time should be granted to men (defendants) till they return to their country Even when once time (or adjournment) has been granted it may have to be given again looking to the importance of the cause

159 After that (i e after the plaintiff has finally completed his plaint) the opponent who has heard the contents of the plaint should narrate (to the court) his reply corresponding to the contents of the plaint

160 If a person (the defendant) does not present himself when a decision has to be given on usages the gift (or return) of money desirable actions and service (or worship of deities) then (the king) should not cause an error (in the decision by deciding in defendant's absence)

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157 Mula means the person from whom a thing is bought in cases where another man claims ownership over it V de Vir p 3 9

160 The sense of the first half is not quite clear chala means an error etc Compare Yaj II 19 [illegible] and Nar p 13 verse 19 [illegible] It may be founded on [illegible]

161 If at that time (when defendant has to give a reply) there is an obstacle due to fate or the king, he (the defendant) is not defeated (in the suit) merely by his not challenging (the plaintiff's assertions) or his giving up (his defence)

162 (The defendant) should establish the defects (i e. calamities) due to fate and king by means of witnesses, but (the defendant) who acts crookedly (perversely) should be made to pay a fine equal to the money (in dispute)

163 The opponent (lit. the person attacked) should (not) deliver a counter-attack against the plaintiff in any matter except in cases of assault and battery, theft, adultery, and urgent matters

164 The king should cause (the defendant) to give a reply according to the requirements of justice after paying regard to whatever rules of practice have been handed down traditionally in matters (of dispute)

(Reply of four kinds)

165 A reply may be of four kinds viz admission of the truth (of the plaint), denial, a special plea, and the rule of former judgment (or *res judicata*)

166 If the opponent on hearing the contents of the

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161 ' Daivarajakrto dosah means interference due to an act of God or the king's action (act of state) i e irresistible force Compare Br p 295 v 9

162 Crookedly &c means if the defendant absents himself without there being any difficulty due to act of God or king a decree *ex parte* should be passed against him and he should be fined

163 The proper reading seems to be अभियोक्तार नाभियुञ्जीत The reading in the text would be opposed to Y II 9 'अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत् । कुर्यात्प्रत्यभियोगं च कलहे साहसेषु च । कौटिल्य (III 1 p 149) अभियुक्तो न प्रत्यभियुञ्जीत अन्यत्र कलहसाहससार्थसमवायेभ्यः and Nār (p 19 verse 55) For Atyaya vide verse 152 Compare Civil Pro Code order VIII r 6 The idea of this verse is that defendant should not be allowed to demand by his reply an independant claim that does not arise out of the same cause of action or transaction as that in the plaint For such a claim he will have to file a separate suit But if plaintiff alleges assault by the defendant the latter can allege prior assault on himself by plaintiff

165 Compare Nar p 25 v 4 and Br p 294 v 9

plaint denies them either in express words or by implication that is a reply of denial

167 If the opponent were to deny the cause of action (contained in the plaint) that should be understood in judicial procedure as the reply of denial

168 Declaration of the truth of the claim (in the plaint) is said to be (reply of) admission

169 A reply of denial is of four sorts (i e put in any one of the following forms of expression), viz 'this is false' 'I dont know anything about this' 'I was not then present there (at the transaction mentioned in the plaint), 'I was not born at the time (of the transaction in plaint)

170 If the defendant accepting the matters set out by the plaintiff as correct, sets up a plea, then Brhaspati declared that the plaint becomes weak (i e fails)

171 That is declared to be (a reply of) former judgment when a person though defeated (lit. sunk) in a (former) proceeding, again causes (a plaint) to be written and is addressed (answered) with the words 'you were formerly defeated'

172 (The reply of) former judgment is of three sorts (when the defendant says) I shall establish by means of the presiding judges or witnesses or a document that he (the plaintiff) was defeated by me formerly

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167 The Vy Mat p 301 ascribes this verse to Brhaspati

168 The reply of confession or admission is variously named satyottara or 'sampratipattyuttara.

169 This is practically the same as Nār, p 30 v 5

170 Vir reads Bhrgu said ' 'Adharya means weakness of the plaint The Par M (III p 72) ascribes the verse to Brhaspati Read क्षत्र for क्ष in the footnote An example of karanottara or pratyavaskandanottara is where the plaintiff says that defendant took hundred rupees and the defendant replies either that he returned them or that they were gifted to him The reading 'Bhrgu of Vir seems to be an emendation purposely made and Kātyāyana appears to have taken three quarters from Br and substituted adharyam etc.' for 'pratyavaskandam tu tat of Br

172 A plea of former judgment could be established in three ways viz, citing the judges who decided the former case, by witnesses who knew of the decision or by means of a document (the written judgment in the former case)

(*Defective answers or defects in answers*)

173–174 A reply that is ununderstandable or self condrad ctory, incomplete too wide dub ous impossible not clear irrelevant full of the fault of exaggerat on that does not thoroughly meet (all the po nts of the plaint) that in terrupts the pla nt ff in stat ng h s pla nt mysterious mak ng no sense unconstruable w thout further exposition unreason able (or absurd) is not commended by the wise That reply which interrupts the pla nt ff in sett ng out the plaint, that does not thoroughly meet (all the po nts in the pla nt) that is mysterious or makes no sense that is unconstruable without further expos t on and that is unreasonable does not conduce to one s success

176 That reply is ununderstandable which is narrated by one who does not know the pecul ar marks (of the matter in d spute such as the colour of a cow) or the figure (having long horns &c) or the number (such as a thousand) or the part cular convention (or times of the matter in dispute) or is narrated in a language other (than the one known to the judge or assessors)

177 That reply should be regarded as self contradic tory when (a defendant) says thus I returned in my boy hood (pla ntiff s dues) and (aga n says) I did not return

173-175 Here aga n the terms are d fferently explained by different wr ters V de notes to V M pp 28 29 Bes des verses 174-175 seem to be only d fferent read ngs current in different localit es All the terms except a few are expla ned by Kāt h mself in verses 176-186 Compare Br p 293 v 6 An example of an mposs ble reply is where a person of 20 says my grandson returned the debt V:r exp a ns not clear as mean ng one of wh ch even the letters cannot be eas ly made out An example of full of exaggerat on g ven by the Sm C and Parasaramadhavlya s when the pla nt asserts defendant has to pay me a hundred the defendant s reply s I pa d two hundred

176 The explanat on of the first ha f s in accordance w th the Parāśaramādhav ya

177 Accord ng to the M t (on Yaj II 6) and Apar akula in verse 175 means the same th ng as v ruddha The example of akula g ven by the M t is where when the pla ntiff charges defen dant w th a hundred suvarnas the defendant replies that he took them but does not owe them to the plaintiff.

178 That is said to be an incomplete reply where (a defendant) for saying 'this plaintiff was formerly defeated by me in this very matter' only says 'he was formerly by me'

179 That reply is too wide when (in a reply of admission) having to say 'I took' (as alleged in the plaint), the defendant says 'I have carried out what was to be done' and then adds I formerly took the property or money (alleged)'

180 The wise hold that the reply is ambiguous in a judicial proceeding when instead of replying 'deyam mayā (it has to be returned by me) he gives such a reply as 'mayā deyam' (which means both 'it has to be given by me or it has not to be &c)

181 That is declared to be an irrelevant reply where (the defendant says that) the plaintiff either through strength or weakness formerly concealed a crime attended with force, this is regarded as unsaid (i e as no reply)

182 That reply is said to be not meeting thoroughly (the plaint) when to a plaint averring I gave to him a thousand and a half the answer given is 'that half I returned

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178 Here the defendant omits the important word 'defeated and hence the reply is incomplete The Mit and Apar say that the example is where in a plaint charging a debt of one hundred the defendant says Yes I owe five

179 The Mit says that an instance of a too wide' reply is where, when the plaint avers a debt of one hundred the defendant replies he owes two hundred

180 The expression mayādeyam may be read as 'mayā deyam' or as mayā adeyam owing to 'avagraha

181 'balābalena may also mean very strong' on the analogy of such words as 'carācara, calācala patāpata' vadāvada The defendant in this avoids replying to the substance of the plaint and only puts forth something about the bad character of the plaintiff Compare section 52 of the Indian Evidence Act which says that proof of character is irrelevant in civil proceedings and section 54 about the character of the accused in criminal proceedings

182 An example of avyāpi (which is the same as 'avyāpaka') is according to Apar where the plaint says he took a hundred in Ujjain in the month of Caitra and the defendant replies that he did not take in Ujjain in Caitra. This is an evasive reply He must say he never received anything from plaintiff Compare Civil Pro Code Order VIII rule 4

183. That reply is said to interrupt the (plaintiff's) words where, before the plaintiff has completely set forth his plaint, (the defendant replies) 'I did not formerly take (from him)'.

184. That reply is said to be mysterious in judicial proceedings when the reply is 'how will anyone give a red lotus that he (plaintiff) did not accept?'

185. Those who know the (principles about) replies regard that reply as making no sense when it is put in the form 'Is it always to be given by him alone? It may be given by me' (or is it always not to be &c.)

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183 'Vyastapada' is differently explained by Mit as meaning 'that sets forth a different title of law' and the example given is when plaintiff avers that defendant owes a debt of a hundred the defendant replies that plaintiff kicked him Here 'title' alleged is 'ṛṇādāna, but the reply contains the title 'dandapāruṣya The Vyavahāra tattva notes that Bhavadeva read 'astavyastapadavyāpi' and explained it as meaning full of words having no connected meaning' This would be somewhat like 'ākula' Vide Vir p 85 also

184 The idea is defendant meant to say that he offered back the red lotus to the plaintiff but he did not receive it and so he could not return it He does not expressly say so, but puts forth his reply in the form of a question and in a way that is not clear Besides the word tāmarasa was not well known not being universally used and being a word borrowed from Mlecchas Vide Sabara's Bhāṣya on Jaimini I 3 10 This is the explanation of the Parāśaramādhavīya (III p 75) The S m C appears to take it differently The defendant really meant to say 'I did not take a red lotus from you and therefore I do not give it back.' The Mit explains gūḍhārtha as containing an innuendo against the judge or assessors or the plaintiff e g when plaintiff says he owes me a hundred and defendant replies do I alone owe to him (suggesting that even the judge and sabhyas owe to him) Apar explains it as meaning 'containing words the meaning of which is not well known and gives 'arjunī (in the sense of cow) and kāśyapī (the earth) as instances

185 The first half contains a question and the answer is doubtful, depending as it does upon the tone in which it is uttered Besides sadā deyam and 'mayā deyam are ambiguous as we may separate the words into sadā deyam' and sadā adeyam Vide note on 177 for the meaning of 'ākula' given by the Mit

186. That reply, which is in the form 'crows have teeth' though (as a matter of fact) crows have no teeth is called 'asāra' (absurd), in truth it is not a good reply.

187 (A reply) that falls short of the matter in dispute, that is not clear, that is incomplete or too wide or unconnected, or not thoroughly covering (the points of the plaint), that is absurd or dubious, cannot traverse (defeat) the opponent (the plaint here).

188 That can never be a (proper) reply which is ambiguous, irrelevant, incomplete, too wide, covering only a part of the plaint.

189. That is not a (proper) reply which is a reply of admission as to a portion of the plaint, and a reply of a special plea as to another part (count in the plaint) and is also a reply of denial as regards another portion, since there is a blending (of several kinds of reply).

190. In one and the same proceeding, the burden of proof cannot rest upon both the parties (at the same time) nor can both succeed in (simultaneously) establishing what

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186. The Mit says 'asāram' means opposed to reason or common sense and gives the instance where plaint avers that defendant borrowed a hundred rupees at interest paid the interest but not the principal and the defendant replies that he paid the interest but never took the loan.

187 The reading is probably 'prastutād-anyad' for 'alpam' and it would mean 'irrelevant'.

189 If there is blending of several kinds of reply at the same time, it is an उत्तराभास and not a proper उत्तर This is the view of Kāt The reasons are given in the following verse But if the various kinds are not investigated at the same time, there is no defect

190 For a detailed explanation of this verse, vide my notes to V M pp 29-75 'Kriyā, as Kāt himself explains in verse 216 below, means 'means of proof such as witness, documents etc' and it also means 'burden of proof' In a reply of denial the burden is on the plaintiff. In a reply of special plea or former judgment it is on the defendant in a reply of admission there is no necessity to adduce proof If a reply is a combination of denial and special plea (or res judicata), the burden of proof will be on both parties The plaintiff and defendant cannot simultaneously proceed to discharge the burden This is stated in the first half If both parties cannot be allowed to discharge the burden of proof simultaneously, they cannot both succeed at the same time This is set forth in the words 'na cārthasiddhir-ubhayoḥ' If a defendant combines a

they desire to prove nor can two methods of proof be employed (simultaneously) in the same proceeding

(Matters that cause failure in litigation)

191 If (the defendant) after accepting what is first stated (by the plaintiff) were to set forth in his reply a plea stronger (than the averments in the plaint), then the latter (the plea) has to be established (by evidence) and not the former (viz the averments in the plaint),

192 (The defendant) should give a reply corresponding with the matter (alleged in the plaint) (the king or judge) should, if he does not (voluntarily) give a reply, compel him to give it by means of such methods as coaxing deceitful tricks &c till the object (viz the giving of a reply and finding out the truth) is accomplished

193 If any matter is not alleged by the plaintiff (in the plaint) either through oversight or fraud but is given out in

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reply of a special plea with a reply of former judgment they have to be proved by means of different evidence For example where plaintiff avers he owes me a hundred suvarnas and rupees and the defendant replies the suvarnas were returned and as to the rupees there is a former judgment the fact of the return is to be proved by witnesses or by a receipt (or other document) while the judgment has to be proved by producing the *jayapatra* or citing the judges as witnesses The means to prove the special plea will not prove the former judgment and *vice versa* Hence a simultaneous reply of special plea and former judgment is not proper as two different means of proof will have to be simultaneously employed This is set out in the words na caikatra kriyādvayam

191 This only means that in a kāraṇottara (reply of special plea) the onus of proof is on the defendant Compare verse 170 above

192 The four well known means are sāma dāna bheda and and daṇḍa They are defined by Hārita as 'प्रियपूर्वं वच साम भेदस्तु भय दर्शनम् । अर्थोपप्रदानं दानं दण्डस्ताडनबन्धनम् ॥' (quoted in Sm C III p. 104). The same work quotes a verse of Vasistha enumerating seven means 'कौटिल्य सामभेदौ च दण्डश्चेति चतुष्टयम् । मायाप्रेक्षणमिन्द्रजालं सप्त वा सर्वसिद्धिदा ॥'

193 While the reply is in course of being given if the plaintiff alleges any matters in addition to those stated in the plaint, the plaintiff may be allowed to do so and the defendant's reply to the additional

the midst of the reply, then it should be accepted (by the judge) so far as both (the plaintiff and defendant) are concerned

194 When a defendant though urged by the (four) methods, would not give a reply, he should be regarded as defeated after seven days have expired and should give (to the plaintiff what he claims)

195 If a person after lodging a plaint abandons (his original claim) or puts forward a different one he (must be deemed to have) resorted to a totally different case Such a plaintiff becomes a losing party

196 If a person who having made an attack or charge against another (afterwards) says I did not put forward any dispute (against him) he thus becomes one who speaks contradictory things (the judge) should direct him also to be a losing party

197 That plaintiff who having caused (his plaint) to be written (on paper or a leaf) desires to subtract sentences from it or to add them to it would become a losing party He does not deserve to be the plaintiff

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matters may also be accepted This implies that after the reply is completely set out the plaintiff *cannot add any thing* This is expressly stated in verse 206 Compare C vil Pro Code Order VI r 17 and Order VIII rule 9

194 Compare Order VIII rule 10 and order IX r. 6 Vide also Kaut (text p 149) and translat on p 190 the defendant may be allowed three or seven days etc

195 Compare Nār p 19 v 36 and p 29 v 24 and Yāj II 9 The V M notes that such a plaint ff becomes l at le to be fined but does not altogether lose h s c se (if it is of a c v l nat re (text p 19) For the fine in such a case v de verse 20 b low Kaut also enumerates (p 149) many causes of Parok a the first of wh ch is for sak ng the point firs set out he goes over to ano her

197 The Sm C explains th at as long as the plaint is wr tte n only on the ground with chalk etc the pla nt ff s allowed o add to or subtract from it (vide verse 193 above and that this verse applies only when the reply has been fully set out If he adds or subtracts while the reply is being given he is only to be fined but does not lose his case altogether

198 The wise hold that the members of the court (sabhyas) and witnesses are (called) ' kriyā. ' He is styled 'kriyādveṣī (shunning judicial investigation) who through ignorance (or infatuation) hates (or avoids) that kriyā '

199 (A litigant) if he does not present himself (before the court) after he is summoned, he loses his cause at once

200 If a litigant even when asked speak out does not say anything (remains silent) he deserves to be at once confined (in jail) The next day that foolish person should be understood to have become a losing party

201 Where he (a litigant) desires to obtain a long time (a long delay or adjournment) merely under a pretext, that should be regarded as deceitful and is declared to be a reason leading to loss of the cause

202 One who changes his pleading should be fined five paṇas, one shunning judicial investigation should be fined ten paṇas one failing to appear twelve paṇas, one who remains silent sixteen and one who absconds after receiving summons twenty paṇas

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198 According to Nār p 31 v 33 there are five classes of persons who may be called hīnavādi (cast out in their pending suit) viz anyavādi kriyādveṣi nopasthātā niruttara and āhūtaprapalāyī Verses 195 197 illustrate the first This verse illustrates the second Verse 202 lays down the fines for each of these Vide Bṛ p 295 v 5 for four kinds of hīnavādī

199 This speaks of nopasthātā of Nārada compare Order IX rules 3 6, 8

200 This explains niruttara

202 The Sm C explains that Nār enumerates five hīnavādis to show that each succeeding should be fined more heavily and not because there are only five kinds since there are other kinds also Vide Nār p 31 v 33 for these five terms Bṛ (p 295 v 5) mentions four kinds of hīnavādīs two of whom the silent and absconder are the same as in Nār, but two others sākṣiparājita (convicted by witnesses) and confessing are different These five classes of hīnavādis though liable to fine do not lose their civil claims as Nār says a verbal error does not annul the claim in actions of any kind so if the case relates to cattle or to a woman or to land or to debt he is liable to punishment but his claim is not annulled The latter half only illustrates civil disputes Vide Mit on Yāj II 19 and Manu VIII 53 56 for hīnavādis Vide also Kauṭ text p 149

203 The king should punish (fine) him who though thrice summoned, does not come (to court) or absconds though summoned and allowes five days to pass (without appearing before the court)

204 Where (a litigant) divides (induces to be partial) even a single one out of the members of the court that have listened to the trial and where he offers a bribe to the opponent he must be indicated as a losing party

205 In a civil dispute if a litigant himself threatens (the other side) or offers a bribe to him or threatens him through another or restrains him in these cases the litigant becomes hina (i e a losing party or is cast off)

206 (The hinavādi) should be fined in accordance with the offence charged and no opportunity is to be given for litigating the same matter again when the averments of both (plaintiff and defendant) have been written down and the consideration of the dispute (by the members of the court) has started, whoever then adds what is improper is cast off from his claim

207 He who after announcing his witnesses, does not bring them (before the court) at the trial at his sweet will that litigant in consequence of this loses after thirty days

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205 Vir and Sm C ascribe this verse to Br The same results follow whether these causes occur singly or cumulatively

206 The first half here refers to criminal disputes as explained by the Vir (p 101) which ascribes the first line to Bṛhaspati The last two lines mean that he loses his claim altogether if he makes a case not in keeping with what he stated in the plaint after the judges have begun to consider the matter Compare Yāj II 16 The reading anuktam of Apar means if he avers what was not said in the plaint which means practically the same thing as above

207 At his sweet will this means not being prevented by fate or the king or some other irresistible force Br (p 295 v 7) has almost the same verse [illegible] (स्मृ चं III p 110) Vide also Br p 295 verses 8 9 for ... or King

directed towards the establishing of what then becomes the claim (viz , the special plea)

212 When (the plaint) after being properly amended is written down in this way and when a reply free from defects has been given, it is necessary that the defendant or the plaintiff should take up the adducing of proof

213 That is (styled) *sadhya* (the claim to be establish ed) which the plaintiff himself proposes to clearly establish and that is (styled) *sadhana* (means of proof) by which the entire claim (of the litigant) is established

(*Means of proof and their relative strength*)

214 Documents, witnesses, enjoyment (*or possession*) these three are known as means of proof Reasoning is the consideration of certain characteristics which cannot be explain ed otherwise (than on the hypothesis propounded) and there are ordeals of poison and the like

215. When the plaint has been completely written down in proper words, the plaintiff should establish by proof (his claim) after the third stage

216 The matter to be accomplished is called '*sâdhya*' and the means are styled '*kriyâ*' The latter (i. e means of proof) are twofold viz divine and human, human (means of proof) are documents witnesses and the like and divine (means of proof) are the balance and the like

217 A wise man should avoid when witnesses can be had, the divine means (of proof) (A litigant) who employs divine means (of proof) when witnesses are available, becomes a losing party on that account

218 If one (party to the litigation) puts forth human (means of proof) while the other (party) puts forth divine means, then the king should accept human means of proof and not divine

219 When men dispute, if there be human means of proof though only reaching a portion (of the allegations in the plaint), then the human means should be accepted and not divine means, though they may be complete (i e completely cover all the allegations).

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215 Vide verse 31 and notes thereon for the four stages of a judicial proceeding The Sm C takes (III p 124) the word 'likhita' to mean reply

216 We must read 'dhâ ādir' for 'sâdhâdir' The first two lines are ascribed to Vyâsa by Sm C (III p 124) and Vir (p 111) Compare Nâr p 30 v 28 where we have [illegible] and Brhaspati [illegible] quoted in [illegible] III p 124

217 Witnesses is illustrative and stands for all human means of proof (such as documents &c) Yâj II 22 also expressly states that ordeals are to be employed only in the absence of documents witnesses and enjoyment Compare Nâr p 30 v 29

219 A portion here means a substantial part of the allegations and not any part whatever however trifling or irrelevant it may be Vide verse 222 below For example, if the plaintiff asserts that defendant borrowed a certain sum at a certain interest and if he can prove when the defendant denies all this borrowing by human means but not the exact amount nor the rate of interest then he would succeed and defendant would not be allowed to have recourse to divine means Compare Yâj II 20 and Visnudharmasûtra VI 23 for the proposition that when the plaintiff establishes a part of his claim (in case defendant denies everything) defendant has to render the whole of the claim

220 The divine (means of proof) are of five kinds and human of three kinds

221 When (a litigant) abandoning a strong ground resorts to a weak one (to prove his case) he would not be again entitled to rely on that (strong ground) after the members of the court have decided as to who should succeed

222 That ' kriyā (proof) that would establish several unsubstantial parts (of the allegation of the party) but not the essential part should be cast off since it is unsubstantial (weak) That means of proof which would establish both sides (viz the plaintiff s and the defendant s) should be cast off entirely

223 In disputes when witnesses exist divine means of proof are not prescribed and when there is a document neither ordeals nor witnesses (are prescribed as the proper means of proof)

224 A document becomes lost (or useless) by time and it may be found by judicial investigation to be tainted (tampered or forged) In a judicial proceeding where no documents or witnesses exist he (the litigant) should indicate (rely on) divine proof In (a claim) that is to be establish ed by divine proof, he should not employ a document or (other) human means of proof

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220 'Five—this does not mean that there are no more but that they are not less than five Pitāmaha speaks of nine kinds of ordeals

221 This rule lays down that a litigant must rely upon all available grounds of attack or defence whether strong or weak, and if he fails by relying upon a weak ground he cannot agitate the same matter on other and stronger grounds This verse propounds the same strict rule of res judicata as is contained in explanation 4 of section 11 of the Indian Civil Pro Code of 1908

223 ' When there is a document —this contains the germ of the rule in section 91 of the Indian Evidence Act prohibiting when a a contract is in writing the adducing of other evidence to prove the terms of the contract

224 ' A document time '— This means that the letters may become illegible by lapse of time

225 Whatever are declared as the conventional usages of the associations of traders of guilds (of artisans &c) and of groups (of Brahmanas) and the like, the means of proving them are documents neither ordeals nor witnesses

226 Enjoyment alone is weightier in the case of the making and use of doors and ways as also in the case of water courses and the like, and not writing nor witnesses

227–28 In the case of (disputes about) things given (or promised to be given) but not given in decisions (of disputes) of servants with their master, in the matter of taking back a thing after it is sold and when a person having purchased a thing does not pay the price in gambling and prize fighting—when a dispute arises in these matters, witnesses are the means of proof, neither ordeals nor witnesses

229 When the dispute that is investigated is about 'sāhasa (heinous offences) or about physical injury or abuse and defamation and in causes that spring from force, witnesses or ordeals (are the means of proof)

230 In the case of persons guilty of secret heinous crimes the investigation (into their guilt) has to be made by

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225 For śreṇ (guilds) and gaṇa vide notes on verse 82 above and also verses 679 80 where Kāt himself defines pūga and gaṇa

226 It is better to read —bhoga as Para M does and connect 'kriyā and — bhoga with both door and way If kriyā and bhoga were taken to be separate subjects of enjoyment it is difficult to bring out their sense This verse refers to easements and enunciates the doctrine that they are acquired and proved by undisturbed enjoyment for a long time Vide section 15 of the Indian Easements Act of 1882 In *Lalubhai* v *Bai Amrit* I L R 2 Bom p 299 at p 312 this verse is referred to

227–228 Verse 227 refers respectively to the titles of law called 'dattapradānika svāmipālavivada and 'krayavikrayanusaya' In ancient India sales and gifts were made without a writing and property passed by mere delivery Hence as a general rule witnesses were the only means of proof in these cases

229 Compare बृहस्पति वाक्पारुष्य महीवाद [illegible] दिव्यं [illegible] quoted in अपरार्क p 629 Vide Nār p 93 v 241 This verse prescribes an option between ordeals and witnesses

230 The first part states an exception to the rule in verse 229 The latter half means that ordeals are not to be resorted to simply because there are no witnesses, but only when there is no clue to their

ordeals and by means of reasoning, marks, by the gestures and by the outward manifestations (sweat etc.), by the voice, the eye and movements

231 In the case of all *sahasas* (heinous offences) of the gravest kinds (the judge) should examine the truth by means of (lit by the eye or sight of) ordeals, even though there be witnesses (This is the view of) Bhrgu

232 Where the witnesses are equal there also (the judge) should find out the truth by means of ordeals In disputes about offences entailing death penalty if the plaintiff (or complainant) has recourse to ordeals though there be witnesses, (the judge) should not question witnesses

233 In (disputes as to) debts the means of proof are declared, through the desire of doing good to the people, to be either a writing or witnesses or some sort of reasoning or the like or divine means

234 One should prove a debt by means of these in order viz urging (dunning) the debtor (to pay) on each occasion putting forward some argument and the third being oaths

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guilt by means of even 'reasoning &c Inga' is explained as 'down cast look and the like' and 'akara' as 'perspiration horripilation &c due to emotions of fear &c though both words are given as synonyms in the lexicon of Amara. Vide Manu VIII 25 26 for the same means of arriving at mental states

231 According to Nar p 202 v 3 'sahasa is of three kinds viz of the first, middling and highest degree and according to Nar p 203 v 6 taking human life with poison weapons or the like intercourse with or assault on another man's wife and whatever else that causes destruction of life is called *Sahasa* of the highest degree The minimum fines prescribed for these three kinds (Nar p 203 verses 7-8) were 100 500 and 1000 panas respectively

232 The equality of witnesses on both sides may consist in the number and in their trustworthiness The offences that entail death are the five mortal sins Compare [illegible] (quoted in [illegible] p 316) Vide Manu XI 54 for the five great sins

234 The Sm. C explains Codana pratikalam as urging the debtor for several times in the presence of third persons to pay the debt Whenever the time for payment arrives and the debtor though dunned does not protest it is first method Yuktilesa means 'you took from me so much money for such and such a purpose in a certain place and at a certain time.'

235 If (the debtor) though urged (reminded) again and again three, four or five times (by the creditor) does not refute (or protest against) the latter's words he must carry out (pay back) the object (the debts)

236 If dunning be protested against he (the creditor) should follow him up with arguments relating to the place, the time, the connection (subsisting between the two parties), the amount (of the debt) and the actions (of the two)

237 If arguments also are futile he should decide by means of the ordeals alone such as fire, water, righteousness and the like that may be appropriate to the property involved, the time and the strength (of the defendant)

238 Where a document is declared before the king to be fraudulent (i e forged or fabricated) there the king occupying the seat of justice should find the truth by ordeal

239 In (disputes about) land and in harshness of words (reviling and abuse) (the king or judge) should not prescribe ordeals

240 In disputes about immoveable property ordeals should be avoided (The litigant) should establish his claim by means of witnesses by writing or by possession

241 In all disputes the king should always give a decision by means of the pramanas (documents witnesses, possession) or by inference or even by ordeals

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235 237 These verses are almost the same as Narada (rnadana 236-238) and explain the three methods in verse 234 Vide Nar p 97 In 236 what is meant is that the creditor should himself remember the time place &c and remind the debtor of them Sapatha includes both oaths and ordeals Compare Manu 8 109 The reading Śapathair enam ardayet of Narada means he should make him undergo ordeals and is better

239 This is not in conflict with verse 229 which gives an option between witnesses and ordeals in the case of reviling etc That verse refers to serious offences of reviling while this refers to slight ones

240 This verse is almost the same as that of Pitāmaha quoted in Sm C (III p 121) 'स्थावरेषु विवादेषु दिव्यानि परिवर्जयेत्। साक्षिभिर्लिखितेनाथ भुक्त्या चैतान् प्रसाधयेत्॥' We should read parihārayet (in the text)

241 Inference Gautama (XI 23 24) says that in arriving at justice ratiocination is the means etc (न्यायाधिगमे तर्कोऽभ्युपायः। तेनाभ्यूह्य यथास्थानं गमयेत्।)

242. Pramāna (means of proof) is said to be three-fold, viz. documents, witnesses and possession. The wise say that 'hetu' is inference and tarka (ratiocination).

243. In the absence of each of the preceding (the king should decide) with the succeeding, but never otherwise, (he should decide) by the pramanas that are indicated by the litigants, viz. possession, documents and witnesses.

244. No one should prescribe ordeals for the plaintiff (lit. the attacker), those who are adepts (in the knowledge) of ordeals should offer ordeals to the defendant.

245. In a reply of denial, it (vyavahāra, the legal proceeding) has four stages (lit. feet) and so in *pratyavaskandana* (reply of special plea) and in the reply of former judgment, but it should be known to have (only) two stages in replies of admission.

246. Defeat is said to be two-fold, viz. declared by another (i. e. by the judge) or by oneself. The former is of ten kinds and the latter is only of one kind.

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243. The first half must be read with verse 241 and it means that if pramāṇas are available one should decide with their help, if not available then by ratiocination and then by ordeals. If no ordeals are possible, then the king's own discretion is the final arbiter, as Pitāmaha says '[illegible]' (quoted in [illegible] III p. 164).

244. This means that in a reply of denial, there cannot be an ordeal, as there the burden of proof is on the plaintiff. Yāj. II. 96 notes that ordeals may also be left to the option of the parties also i. e. even the plaintiff may undergo an ordeal.

245. In verse 31 above the four stages (*pādas*) of a judicial proceeding are enumerated. In a reply of admission there is no need to deliberate as to the burden of proof or the means of proof and so there are only two stages, viz. plaint and the reply. The Vy. Māt. p. 2[illegible] notes that where the plaint is such that it deserves no reply, there are only two stages, viz. the plaint and the decision (of the court) rejecting it, similarly where the reply is no real reply, there are only three stages plaint, vitiated reply and judgment (in favour of plaintiff).

246. In the reply of admission [illegible], the party is defeated by his own words. This is the one kind of defeat due to one's self. The Sm. C. (III. p. 130) notes that what he considered (verse 253) is to be written by another, but his own opinion (verse [illegible]) was to be written in his own hand by the king.

247–248 Going over to another (ground of) dispute (i e change of plead ng or front) conflict between former and later averments defects in the product on of one s means of proof lend ng support to what the opponent says non men t on of the place of the transaction in dispute mention of a wrong time and place (for the transaction) brib ng w tnesses, hatred of saying out th ngs (when exam ned) putting for ward of an improper place and interfering with questions put to witnesses (these are the ten k nds of defeat due to another)

(Documents)

249 Documents are declared to be of two kinds viz made in one s own hand and made in the handwrit ng of another, (the first is valid) whether attested by w tnesses or not The validity of both follows from the usage of the country (where they are written)

250 That should be known as a document written in one s own hand which is written by the debtor with h s own hand though there are no witnesses (on it) the wise regard it as valid

251 (One) should should cause the origin (of the parties to the transaction) the caste the names and the amount of money to be wr tten (in a writing) In this way one remembers what was done a matter that is not consigned to writ ng perishes (by lapse of time)

252 A document should be attested by witnesses and should be so wr tten as not to transfer the order of letters (requ red to express the sense) should observe the local con vent onal usages (as to documents) and should contain full deta ls as to all matters.

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249 This s Nār p 73 v 35

250 Yāj II 89 affirms that a document wr tten by oneself s valid even though not attested by witnesses aga nst the person wr t ng it in the absence of force or fraud

51 Prayuktasya may also mean what s lent at nterest As to wr ting perpetuat ng test mony compare Br p 304 v 2 and Nār p 63 v 70

253 That document which contains the proper framing of letters and sentences which is unambiguous, all the letters of which are clearly leg ble the stops of which are not lacking in the proper order attains valid ty (lit success or perfection)

254 That writing is called *sthitipatra* (deed of conventions) which is made for the validity of (for preserving intact) the usages of men versed in the four Vedas, of a city, of corporations, of groups and of the citizens

255 That is known as *vis uddhi patra* (deed of purification) which is given to persons with attestations of witnesses when they have performed the penance (prescribed) and have become free from the accusation (of the commission of grave sins)

256 That writing is called a *samdhi p itra* (deed of peace) which rec tes what happened when an accusat on is brought (against a person) before all the best (leading) people

257 A deed of boundaries is made when a dispute as to boundaries is decided

258 That document is declared to be royal which has on it the kings own hand and which is marked with the royal seal and which is attested by witnesses in all matters

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253 The stops of which &c th s is the translation of abhinakrama c hnam wh ch may also mean the seal on wh ch is not out of order Th s w ll apply on y to a royal do ument

254 Vyāsa as quoted in Sm C (III p. 135) enumerates e ght kinds of wr tings v z c raka svahas a, upagata ādh patra krayapatra sth tipatra, samdh patra and v śuddhipatra The Sm C notes that there are other documents also such as a deed of partit on Br p 304 v 4 d vides wr t ngs of ord nary people n o seven var et es (v z of partit on g ft purchase mortgage agreement servitude and debt and royal edicts into three Br g ves defin t ons of these seven

256 Th s verse s rather obscure What s meant seems to be that a comprom s arrived at as to an accusation before the leading people of the place is put down in wr ting wh ch is then called samdhi patra

259-264 The statements of the plaintiff and the defendant, the averment (of the plaintiff as to the relief claimed) the statements of witnesses the decision of the dispute, how the matter was considered by himself (by the king), these should be set out in their order in writing First the statements of the plaintiff and defendant should be set out, after that the words of the sabhyas, of the judge or of the *family* members and therein also should be written the decision of the case according to the rules of Smṛti and the (final) opinion (of the king) The plaintiff is to be put in possession of the matter that he succeeded in proving after being commended (on his success) and the king should give him a writing under his own hand and he should make the members of the court who were there (at the time of the hearing) and who are proficient in Smṛti to sign (the judgment) as in the case of (other ordinary) writings A writing executed in this mode the wise declare to be 'paścatkāra' Where the litigant discharges his burden of proof by resorting to the (prescribed) means of proof only, there (the document) is called paścatkara, the term is not applied to all (decisions in all matters)

265. That is *jayapatra* (a document recording victory in a litigation) which is given to those who are cast off (in their cause) because they aver somthing other (than what

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259 264 The latter half of 260 and 261 explain what is meant by 'yathāpūrvam in the first half of 260 Kāt applies the term paścātkāra to a final judgment arrived at after hot contest between the parties i e. where all the four stages of a judicial proceeding have been gone through If there is only a reply of admission or if the suit is decreed *ex parte* or if the plaintiff or defendant is non suited for being a hīnavādī then the decision is not a paścātkāra but it is a *jayapatra* (document of success) 'Kulāni (family members) we saw above in verse 82 that they were the court of lowest jurisdiction For the contents of judgment compare Civil Pro Code Order 20 rule 4

265 Kāt restricts the use of the word *jayapatra* to a judgment given in cases of those whose claims are cast off for various reasons without a thorough trial while he applies the word paścātkāra (lit means 'refutation') to a judgment given after complete contest Herein he differs from Bṛhaspati Vyāsa and others who employ the word jayapatra for

was first stated) and other hinaddis and which contains a recital of what happened

(Examination of documents)

266 (The judge) having summoned by order of the king should examine as justice requires documents according to the usages about documents (prevalent in the country) and witnesses according to the characteristics of witnesses (laid down in smrtis)

267 This is 253 above

268 That is said to be a document marked with the hand of another which is in accordance with local usage which gives the year, month fortnight and the like and the rate of interest, and bears the signatures of the debtor the witnesses and the scribe

269 That becomes a false document the letters wherein stand away from their proper places are not in a line, are ambiguous and do not possess the characteristics (of genuine writing)

270 (That writing) is defective which is opposed to local usage which is ambiguous, which is devoid of the proper order (of words and sentences), which is executed by one who is not the owner (i e the proper and authorised person) and which is wanting in the (statement of the) matter to be effected (by a document)

271 A document executed by a person intoxicated, or by one under fear or one defrauded or executed by one who is or

by a lunatic or who is distressed (by misfortunes or diseases), by women, by children and by those who are not independent (i e who are not their own masters) has no validity

272 If a person even after (an invalid transaction) is publicly announced does not (take steps to) annul (it) the next day then it would come to be valid, except transactions entered into by persons intoxicated or lunatics

273 A document may be vitiated (invalid) owing to the defects of witnesses or of the scribe or to the fraud of the creditor or of the executant

274 A document made by persons guilty of faults becomes vitiated while one made by persons free (from any fault) should be declared to be valid (lit pure) That document (which is made) by witnesses writer and executant guilty of deception (becomes vitiated)

275 The defects of the means of proof (such as documents and witnesses) when they are latent, must be declared (pointed out) by the litigant (who wants to impugn them) at the proper time (viz when they are adduced in the trial), but the patent defects must be declared by the members of the court at the time (of the consideration of the evidence) by reference to the (rules of) Smrtis

276 The defects should be so pointed out that the witnesses the writer and the executants would be found to be false , a document becomes invalid when these are (shown to be) vitiated

277 When the opponent (defendant) avers that (the document) was not written by the scribe (by whom it purports to have been written) or that it was not seen by the witnesses (by whom it is attested) then the document is said to be (charged) as false

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below) In I L R 5 Bom 99 at p 104 the text of Bṛhaspati is quoted and it is suggested that strimatta should be taken as one word in the sense of under female or aphrodisiac influence but this verse of Kat shows that that is not a correct way of understanding Bṛhaspati's text since Kat separately mentions woman and matta

275 Vide v 378 below The words by reference etc should be connected with both latent and patent defects

276-277 These lay down and illustrate the method of pointing out the defects of documents as required by 275

278 (A litigant) should not challenge a means of proof by (alleging) a defect which is false, if he were to make a false attack (against the proof adduced by his adversary) he would be liable to be fined and would lose his cause (the object he wanted to secure)

279 When (a document) has thus been challenged as invalid before the court (lit before the royal seat), it should be considered and he (the judge) should examine the faults (alleged) in the document, holding consultation with brāhmaṇas

280 A document becomes vitiated (invalid) by any thing that makes the witnesses or scribe or the executant thereof false, it is to the declared valid (lit pure or free from faults) if these are free from defects

281 A document written in his own hand by the creditor and not attested by witnesses would be held to be false, if the maker of it (viz the creditor) would not be able to establish that it was made by him (with the consent of the debtor)

282 If the debtor denies his own signature made on a document, the matter should be decided by (the evidence of) the witnesses on the document or by the opinion (i e evidence) of the scribe

283 In disputes about documents whether written (by the man denying them) or not the decision (about the genuineness) of it must be made by (the evidence of) witnesses when a document is challenged as false the litigant should cite the witnesses thereon (as his evidence)

279 Holding brāhmaṇas vide notes on 57 59 above

280 If the faults pointed out by a litigant are not refuted by his) opponent then the document becomes invalid. Compare 2 4 (first half which is almost the same as the latter half of this verse

282. Compare section 68 of the Indian Evidence Act

284 When in the case of all the three kinds of documents a doubt arises in the minds of men, then one should establish (their genuineness) by producing the signatures of the debtor, the witnesses and the scribe thereof (for comparison)

285 If the scribe along with the witnesses be dead, the document would undoubtedly be proved to be genuine by (a comparison of) their (admitted) signatures and the like (with the signatures on the disputed document)

286 When there is doubt about the signature of the debtor (on a document) whether he be living or dead the decision about (the genuineness of) that document is to be made by (comparison with) other documents executed by him with his own hand

287 Even when all these (viz writer, witnesses and executant) whose signatures are made on the document which bears the royal seal are dead, that document is still held valid even though they are all dead.

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284 Compare Yāj II 92 and Nār p 78 v 143 Bṛ (p 304 v 3) divides writings into three sorts viz those written by the king (rājalekhya), those written in a particular place (sthānakṛta) and those written by a person with his own hand (svahastalikhita) Sthānakṛta appears to mean written by professional scribes appointed by the king or his officers and attested by witnesses Compare Nār p 75 v 135 Kāt is probably referring to this three fold division made by Bṛ Vi (VII 3) divides documents into three varieties viz rājasākṣika (i e written by kāyasthas appointed by the king and bearing the signature of the presiding officers) writings attested by witnesses writings without witnesses

285 Vide Vi VII 13 for a similar idea Compare section 69 of the Indian Evidence Act and for proof of hand writing by comparison sec 73 of the same Act According to the Sm C the like include the gotra, caste etc

287 The validity of the document is due to the royal seal which is prima facie evidence of genuineness This provision is somewhat like sections 53-60 of the Indian Registration Act of 1908 and is a precursor of the solemnity attached to registration as laid down by the Privy Council in 8 Bombay Law Reporter 375 Apar restricts this rule to a royal edict bearing the royal seal.

288-289 What is directly perceptible is not (allowed) to be overruled by inference, therefore the decision about a document which is challenged as false is to be arrived at on the testimony of witnesses since (the debtor or executant) may himself challenge a document as false for securing wealth to himself. A document (without attestations) should be proved to be genuine by (comparison with other) documents and one that is attested by witnesses by the (testimony of) witnesses

290 When it is alleged that a document is false (the litigant) who would not establish it to be valid by the testimony of the witnesses and of the scribe, should be made to pay the highest amercement

291 When (a debt) has not been claimed by (the creditor) able to do so from (a debtor) who has wealth enough (to discharge it) and who is near (the creditor) then the bond (recording the debt) loses its strength as this raises a suspicion that the debt has been paid off

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288. This applies to a case where a document is attested by witnesses and the debtor or executant denies it. In such a case the court is not to rely on comparison of the debtor's signature on the document with other admitted signatures of his. This process would be one of inference. Hence witnesses are in such a case to be examined and their testimony is weightier than mere comparison of handwriting. A witness is so called according to Manu (8 74) and Vi. (8 13) and Nār pp. 79-80 verses 14 148 because he has himself seen or heard a matter or experienced it i. e his testimony is direct. The latter half restricts comparison of handwriting to a document which bears no attestations and it occurs in Nārada (ऋणादान verse 145), where Asahāya explains it differently while the translation above follows the interpretation of the Sm C

290 Apar construes the verse differently when an allegation of falsity is made as to the writer (i e executant) of a document. The highest fine was 1000 paṇas according to Manu VIII 138 or 1080 according to Yāj I 366

291-292 Vide Br p 303 v 28 for same verses. Not being seen or read out to anybody leads to the inference that it was not meant to be acted upon as it was neglected for a long time. Compare Br p. 309 v 31, also Nār p. 77 v 141 for a very similar verse

292 A document (executed) beyond thirty years, which has never been seen (by anybody) nor read out (by the creditor to anybody), does not attain validity even though the witnesses (on it) be living

293 If a man does not show a document even though the debt (evidenced by the document) has ceased to bring interest and if he does not press the debtor (for payment), the document loses validity.

294-295 (The judge) should consider very carefully a document that is put (purports to be) in the form of a *paścātkāra* (judgment after contest) If such a document stands (the test of) reasoning, then it is valid, otherwise it should be cast aside and he (the judge) should again decide (the matter in dispute) When what is not true has been established as the truth through ignorance, it should be set aside, even though it was established as valid with effort by (former) kings

296 A (royal) edict becomes valid when it is free from defects as to the seal (thereon), as to the mode of writing it, as to its enjoyment (or custody), when it has the proper characteristics (of an edict) and when it bears the genuine signature of the king

297 That writing which is free from faults and which is made known (to the people round about) attains validity

298 If the debtor does not declare the patent defects of a document even when he has seen it, the document when it has stood (unchallenged) for twenty years becomes firm (i. e unchallengeable thereafter)

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293 The Sm C explains that this happens when the debtor is near at hand and is well able to pay

294-295 *For paścātkāra* vide verses 259-264 above Vide verses 495-496 as to review of judgment

296 'Kriyāśuddha' is explained by the Sm C as meaning 'free from ungrammatical words and from the fault of disconnected words.'

298. 'Debtor' – this word is only illustrative and stands for all who are affected by a document. This prescribes a period of twenty years for avoiding voidable documents

322 As regards the first (possessor) title is the means of proof (of ownership), as regards those in the middle (i e the second and third generations) enjoyment accompanied by title (is the means of proving ownership) but unbroken possession for three generations is by itself the means of proving owner ship (in the fourth generation)

323 The (first) occupant though he may have pos session, should clear (by evidence) the defects (alleged) in the document (under which he holds) but his son (or grand son) should clear only the defects in possession and would not suffer for (lit obtain) the defects of the document (of his title)

324 Whatever property has been (first) acquired by a man, if he were impeached (by another) he should clear (his title to) it In his case possession even though he en joyed the property for a long time is not desired (as the proof of ownership)

325 (The king or judge) should not out of greed interfere with possession which is immemorial and not known (to have originated without title)

326 When a property has been enjoyed by (a man's) father according to the usual mode of enjoying (the property), that (man), when the father is dead should not be called upon (to prove title) since he got that property (from his father) by enjoyment

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322 Danam (gift) stands as illustrative of sources of title. The first possessor must show legal title in the case of his son and grandson they have to put forward some title and also possession, while the fourth generation can rely only on possession for three prior generations (and need assert no other title) Compare Yaj II 27 about the relative strength of title and possession

323 324 Compare Nar p 43 v 30, Br p 313 v 25 and Yaj II 28 The Mit explains that the first occupant is liable to fine if he cannot show title his son and grandson need only show immemorial possession and they are not liable to fine even if they show no title nor immemorial possession In the latter case they may at the most lose the property Vide ' आगमस्तु कृतो येन स दण्ड्यो मनुहरन् । न तत्सुतस्तत्सुतो वा भुक्तिस्तयोर्गरीयसी ॥ quoted in स्मृ च II p 165 and मिता on या II 28

326-327 Both these are Vi. V 186-187 Compare Br p. 313 v 28

312 When a document is broken by dirt (soiled by dirt), when it is burnt, when it becomes perforated when it has passed away (into another country or in another's hand) and when it is rubbed off owing to perspiration, another document should be caused to be written.

(Possession)

313. Documents, witnesses, possession – these are regarded as three *pramāṇas* (means of proof) Among human pramāṇas, possession is regarded as equal to a faultless (valid) document

314 When there is doubt (dispute) about a way, doors for exit (and entrance), water courses and the like, undoubtedly possession is the weightiest among means of proof

315 A witness is weightier than mere inference, a document is weightier than witnesses (i e oral evidence), unbroken possession for three generations is weightier than all these

316 Reliance should not be placed on (mere) possession by the wrongful possessor or his son (as his strong point) in the case of beasts, women and men (slaves) This is the settled *Dharma* (Law)

317 Possession is declared to be of two sorts viz with title and without title Possession which continues for three

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312 Compare Yāj II 91 and Nār p 79 v 146

313 Compare Nār p 58 v 69

314 Verse 313 declared 'documents' and 'possession' as equally weighty means of proof. This verse declares that in certain disputes (about easements) possession is superior to the other *pramāṇas* Vide verse 226 above Nār (p 60 v 77) emphatically declares that as regards immoveables possession counts most (is nine points of law) even though there be a document and witnesses

315 Vide Manu VIII 25-26 for signs from which inferences were to be drawn about intention or other mental states of men What is meant by 'three generations is made clear by Kat. himself in v 318

316 Vide *Lalubhai* v *Bai Amrit* I. L. R 2 Bom 299 at p 310 for explanation of this verse

317 'Āgama means 'origin of title' or 'title According to Br p 309 v 2 ownership of immoveable property can be acquired in seven ways viz by learning, purchase, mortgage conquest, as

327 When a land has been duly enjoyed by three generations, the fourth secures it (as owner) even in the absence of a document

328 Just as milk produces by lapse of time curds which is full of taste, so possession transmitted for three generations becomes the source of conferring (ownership) by lapse of time

329 That possession which is unbroken and of long standing (immemorial) is strong (valid independently) in law Possession, even though interrupted, (is valid) provided it was established by an ancestor (as based on title)

330 One should not put forward (mere) possession (as proof of ownership) in the case of women (female slaves), temple property and state property, of the property of minors and those who are learned in the Vedas and as to (what is inherited) from the father and mother

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328 Compare Nār p 63 v 91 and Br p 313 v 27

329. This is the same as Br p 314 v 31 The principle is the same as that underlying Art 142 of the Indian Limitation Act, viz if a man establishes title and dispossession by another within twelve years before suit, he succeeds in ejectment 'Strong' means 'rendering futile a document etc opposed in tenor to it'

330 Compare Manu VIII 149, Vasistha XVI 18 Nār (p 61 v 81), and Br p 312 v 21 (who mentions idiots and Yaj II 25 'Temple property' – Compare section 10 of the Indian Limitation Act (1908) as amended by Act I of 1929 according to which there is no limitation for a suit for following trust property in the hands of a trustee or in the hands of his legal representative or voluntary assignees or for an account when property has become vested as a religious or charitable endowment in him 'State property' compare Art. 149 of the Indian Limitation Act which prescribes sixty years for any suit by or on behalf of the Secretary of State for India in Council, 'minors' compare section 6 of the Indian Limitation Act in favour of minors lunatics and idiots Vide Gautama X 48-49 according to which the property of minors and students was to be under state protection until they attained years of discretion and until return from their teacher Vasistha 7–8XVI, 'from the father or mother' compare the rule of modern judicial decisions that the possession of one co-heir is not necesarily adverse to the other co-heirs Vide notes below on verse 335 and verse 844 for the age of majority

331–333 If a brahmacari, who was engaged in his vow (of Vedic study) extending over thirty six years and a man in pursuit of wealth who remains in another country for a long time, were to return (from his teacher's house) and being free from his vow were to look out for his wealth, then enjoyment extending over fifty years will (alone) make him lose his property (by the possession of another) Twelve years are declared to be the period for studies for (mastering) each Veda and the time (of apprenticeship during which possession by another does not become adverse) for those who learn crafts is said to be the period required till they become masters in them

334 The property of these (students of Veda and of crafts), which was enjoyed by their friends and relatives while they were absent and of those who have been convicted by the king (and imprisoned), is not lost by lapse of time

335 When a thing has been enjoyed by a man's agnates and cognates and by his own people, there (ownership of the thing) would not result from mere possession, one should regard possession (as leading to ownership) in others (than these)

(Reasoning)

336. That man, who, when besought (for repayment) by the litigant (creditor) three, four or five times does not employ a refutation (of the assertion) becomes (established as a) debtor after that

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331 332 'Thirty six years A Brahmacarī had to spend 12 years in the study of each of the three Vedas Vide Manu III 1 Gautama II 51 and 52, Yaj I 36 Samāvartana' – means 'returning from the teacher's house after finishing Vedic study and taking the ceremonial bath Vide Manu III 4 Gautama II, 55 Vasiṣṭha VIII, 1

335 Compare Br p 310 v 11 This contains the principle that the possession of one co-owner or tenant in-common is ordinarily the possession of all and that the mere fact that the profits of a property have been enjoyed by only one tenant-in-common for many years or that he alone is in sole possession does not by itself amount to the ouster of others and is not necessarily adverse to them. Vide I. L. R 46 Bom. 213, 31 Bom. I. R 199 and 1030 (P C.), 47 Cal 274.

336 Compare Nār p. 97 v 237 If a creditor several times addresses a debtor saying you owe me money and the debtor does not protest against such assertions, he will be held to be a debtor.

337–338. Offer of a bribe, effacing the means of recognition, holding out a temptation (to the witnesses or sabhyas) and suppressing the expression of one's thoughts (on the face etc.) – these are the means of establishing (a claim against a person). Where the denial (of liability) by a litigant is clearly made, if one of these is clearly established by the opponent, then the matter charged (such as a debt) is established as against him.

(*Witnesses*)

339. The king should not delay in making the witnesses depose. A serious fault, viz. turning away from justice, would result from delay (in examining witnesses).

340 The king should himself examine the witnesses that are present (in court) and should consider along with the members of the court the statements made by witnesses.

341. Where it is doubtful who the witnesses (on a point) are, time should be given for (producing) witnesses in order that proper means of proof may be found out; but where it is clear (who the witnesses may be) he (the judge) should make the trial proceed at once.

342–343 The judge should in a conciliatory manner question in the following way all the witnesses inside the court and in the presence of the plaintiff and the defendant: 'whatever actions of these two (plaintiff and defendant) among themselves you know as regards this transaction, narrate them all in accordance with truth, since you are the witnesses in this matter.'

337–338. 'Effacing etc.' – means tampering with one's signature or other sign that would establish one's liability' according to Vir. p. 225. Read 'prajñāpanabhedaḥ' as one word.

339. This applies where it is quite clear who the witnesses may be. But where that is not clear, time has to be given

340 'The king' – this is illustrative and includes a judge.

342-343 Compare Yāj II 73 and Gautama XIII. 5. These two verses are the same as Manu VIII. 79-80.

344. (The judge) should himself being pure, question in the first part of the day, and in the presence of gods (idols of gods) and brāhmaṇas men of the three first castes as witnesses for truth they being pure and standing facing the north or the east.

345 (The judge) after having summoned all the witnesses and having bound them strongly with oaths should question them separately, the witnesses being men of known character and conversant with the matter (in dispute)

346 The statement of a witness as to whatever has been perceived (or experienced) by him because of his being in the presence of the plaintiff and the defendant (at the time of the transaction) should be accepted (as relevant evidence) and not otherwise So says Bṛhaspati

347 The testimony of those whose family and characters are well known who are free from avarice and folly who are truthful, pure and men of eminence, leaves no room for doubt

348 (The opponent) should be proved by the plaintiff (to be what he is alleged to be) by (the evidence of) witnesses who are similar to the opponent (in caste) A litigant of a lower caste should not establish (his case) by (the evidence of) witnesses of higher castes

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344 This is the same as Manu VIII 87 In the first part of the day vide verses 60 62 above Compare कौटिल्य p 176 ब्राह्मणा दकुम्भाग्निसकाशे साक्षिण परिगृह्णीयात

345 This is Nar p 91 v 198 Compare Vi VII 19

346 Vide Manu VIII 74 Vi VII 13 for the proposition that a witness is one who has himself seen or experienced what he deposes to Compare section 60 of the Indian Evidence Act (of 1872) This rule means that the oral evidence must be direct and not hearsay

347 Compare Gautama XIII 2 Manu VIII 63 Yāj II 68 and Nār p 81 v 153 Here aptah means those who speak the truth while it means a different thing in v 361

348 The latter half of this is not quite clear We must probably read नोत्कृष्टैश्चावकृष्टस्तु Vide verse 351 Yāj II 69 says यथाजाति यथावर्णं सर्वे सर्वेषु वा स्मृता (i. e the witnesses may be of the same class or caste as the litigant or men of any caste may be witnesses for a litigant of any caste) vide Nār p 81 v 154 (for the same option as in Yāj) Gautama XIII. 3

349 350 Those who wear symbols peculiar to thei sects, śrenis (guilds), pugas (associations) companies of traders and all others who form groups (or combinations) – these are called *vargas* by Bhṛgu The leaders of the communities of slaves, bards, wrestlers and of those who subsist by elephant driving, horse riding and the profession of arms these are in each case called *vargin* When these have a dispute with members of their own group (varga), vargins (leaders of the respective groups) are their (proper) witnesses.

351 Women should bear witness for women (when women are litigants), for (litigants of) the first three castes (witnesses should be of) the same caste as themselves, well behaved śudras for śudra (litigants), and men of the lowest castes such as Caṇḍālas should be witnesses for lowest castes.

352 Where it is impossible to bring (as witnesses) those who stay in a different country, there the cause should be decided on evidence consigned to writing and sent by men learned in the three Vedas

353 Even a single person is made to depose as a witness if he was taken in confidence at the time of making a de-

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349–350 For śreni pugs and vrāta vide vv 82, 225 and 679-80 Compare Nar p 81 v 155 for a similar rule Gautama XI 21 22 lays down that in disputes between agriculturists traders cowherds usurers and artisans the king should decide on the evi dence of their headmen

351 This is Manu VIII 68 and also Vasistha XVI 30 (but in prose)

352 This refers to evidence taken on commission The idea is that the court should depute a learned man to take the evidence of a witness staying in a distant land and the evidence thus taken down in writing by the person deputed should be read at the trial Compare Order 26 (rules 4 and 5) of the Civil Pro Code

353 The general rule is that there should be at least three witnesses Vide Yaj II 69 and Nar p 81 v 153 Br (p 331 v 16) says that there should be nine seven five, four or three witnesses or only two if they are brāhmanas learned in the Vedas but a single person was never to be examined as a witness This verse states an

posit, the messenger, sent by a litigant, is a proper witness, though he is alone (i e the only witness in that case)

354 (In disputes about manufactured articles such as ear rings) one should establish (identity of) that thing by (the evidence of) that man who produced the finished article, in such disputes he, though alone, is declared to be the means of proof

355 The scribe, the judge, the members of the court – these in order are declared to be witnesses (singly) when a cause has been investigated by the king

356–357 There are others declared as witnesses though not so appointed (made or intended) by the parties, viz the village (i e co-villagers) the judge, the king in the case of those who had judicial proceedings (before him) one who knows intimately the affairs (transacted by the two parties), one deputed by the claimant (to ask for a loan or to transact a business) and in disputes between members of a family even the members of the family may be witnesses

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exception to this rule A dutaka is defined by Br (p 300 v 8) as one who is a respectable man esteemed and selected by both parties who comes near to listen to the speeches of the plaintiff and defendant. The reading 'yacite for dūtakah would mean in the case of a loan of an ornament etc

354 This reading is much better It means that the person who was sent to fetch an article on loan and who brought it is singly sufficient to prove what or how much was lent in case of dispute All that this verse means is that one witness will do even though many or even two are not available This verse does not restrict the evidence to the manufacturer alone Vide Vir p 151

355 Where the plea of res judicata was raised the evidence of even one of these was relevant Compare Br p 300 v 14

356–357 These verses are the same as Nār p 81 vv 151 152 except that Nārada reads first-half of 356 as एते ह्यनिर्दिष्टा साक्षिणस्त्वकृता स्वयम् Witnesses are of two kinds krta (made or appointed by the party)' and akrta (not so appointed) These two verses enumerate six kinds of 'akrta witnesses Nār (p. 80 vv 149-150) says there are six kinds of 'akrta witnesses and five kinds of krta witnesses viz. likhita, smārita yadrcchika, gūḍha and uttara. Bṛhaspati (Br p. 296 vv 1-3) enumerates twelve kinds of witnesses लिखितो लेखितो गूढ स्मारित कुल्यदूतकौ । यादृच्छिकश्चोत्तरश्च कार्यमध्यगतोऽपर । नृपोऽध्यक्षस्तथा ग्राम साक्षी द्वादशधा स्मृत । (quoted in स्मृ च p. 34 and व्य मा p 321). Kāt. appears to combine both Nārada and Bṛhaspati.

358 In disputes about the shares of ancestral property, when a doubt arises the statements of members of the family are means of proof, but not in other cases

359 If one out of the witnesses that subscribe them selves (on a document) and that have been appointed (or cited) by the litigant deposes in a way different from (the others) all those become incompetent witnesses on account of contradiction

360 Where a person is appointed by a man as a witness, the other party should not make him depose as his witness In the absence (or death) of that person (who appointed the witness) a person deputed by him or a relative should make him depose (as a witness)

361 Those who depend for livelihood upon the subsistence given by a party, those who wait upon him or are his benefactors those who are his relatives or friends or servants—these are his *āptas* and are not competent witnesses

362 The sons of one's mother's sister, the sons of one's full sister and one's maternal uncles—these are said to be *sandhis* (connected with same womb), these should not be employed as witnesses

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358 Compare Br p 299 v 7

359 Generally three witnesses were cited by a party to prove a transaction supposing one of them deposed in one way and the other in another way the two nullify each other If the matter were to be decided on the testimony of the third, the result would be that the decision would have to be based on the words of one witness only Therefore in such a case all the three witnesses become incompetent But the verse cannot apply to a case where there are ten witnesses on a document, three of whom depose in one way and the rest in another way In such a case the rule that the testimony of the majority or of men of higher character should be relied upon will have to be followed Vide Nār p 95 v 229 Br p 303 v 35 Yāj II 78 Manu VIII 73 and Vi VIII 39 for the latter rule Compare Nār p 83 v 163 for a rule similar to the one in 359 For the definition of subscribing witness (likhita) vide v. 372

360 The Sm C explains that if anybody were allowed to cite anybody as a witness whether appointed by him or not he would be svayamukti (and so an incompetent witness according to Nār p 83 v 161)

361 This verse explains the word āpta occurring in the list of incompetent witnesses in Manu VIII 64 and Yāj II 71

362 This verse is probably meant to explain sanābhi in Nār p 87 v. 180

363 Members of the same family, persons having an interest (in the subject matter of the suit) one connected by marriage (with one s son or daughter), sister s husband, the father, a *bandhu* (a relative) paternal uncle, father in law and teacher – (these are incompetent as witnesses)

364 Those who are appointed (by the king) over towns, villages and districts and to positions (of responsibility) and those who are the favourites (of the king) – these should not be asked (to depose as witnesses), they are the men of the king and devoted (to him)

365 In (disputes) about debts and the like in which the transactions are of a fixed (or permanent) nature witnesses should be tested (as to their competency), but testing (of witnesses) is very rare in *sāhasa* (wrongs attended with force) or heinous crimes and in matters of an urgent nature

366 In transgressions of royal commands in adultery, in sahasas (heinous crimes), in theft and in pārusya (abuse and assault and battery) the judge should not test (the competency or character of witnesses)

367 If the attack (or complaint) be with reference to what took place inside a house or at night or outside the village, one should not inquire into (the character or competency of) witnesses

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363 Person hav ng &c Th s seems to be the same as arthasam bandhinah in Manu VIII 64 and Nārada (ṛṇādāna 177) Compare Bṛ p 302 v 29 for the whole verse

364 Vide Nār pp 86-89 vv 177 187 Manu VIII 64 67 Vi VIII 1 5 and Yāj II 70-71 for long l sts of incompetent witnesses This verse explains the word rājapurusa in Nār p 87 v 185 Being the king s officers or favourites it is likely that the king or judge may be unduly prepossessed in their favour

365 Compare Gautama XIII 9 (न पीडाकृते निबन्ध) Manu VIII 72 Vi VIII 6 Yāj II 72 Nār p 89 v 189 In such cases any person may be a witness but the circumstances of age and other disqualifications mentioned above may detract from the weight of the testimony

367 Compare Manu VIII 69 70

868. When not asked by the litigant (to be witnesses), persons should not depose as witnesses; he who of his own accord takes upon himself to be a witness can not have the position of a witness (at law).

869. A witness is of two-fold mode (lit. path), viz. subscribing a document (as a witness) and one who is apart from it.

870. If a person has subscribed a document in his own hand and is the only surviving witness (out of all the attestors) and cannot recognise (the attestation) as his own, it (his attestation on the document) should be established by (comparison with other admitted) signatures of his.

871. That witness is called 'likhita' (subscribing witness) who is brought by the litigant himself and who (whose name) is placed on a document (as a witness); a 'smArita' (reminded witness) is one who (becomes a witness) without being subscribed on a document.

872. He is styled 'smārita' (reminded) who, being shown a transaction, is again and again reminded of it by the litigant (a party to the transaction in order that the transaction) may be (effectively) proved (thereafter).

873. He who is brought for some purpose and he who comes (at the time of the transaction) casually – these two are witnesses, who are not subscribing witnesses, but establish the assertions in a plaint (about the transaction seen by them).

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369. Vide प्रजापति 'साक्षी द्विभेदो विज्ञेयः कृत एकोऽपरोऽकृतः । लेख्यारूढः कृतो ज्ञेय उत्तरोऽकृत उच्यते ॥' (quoted in स्मृतिच III. p 184). The first stands for the five kinds of appointed witnesses and the latter (uttara) refers to the 'akṛta' witnesses.

370 Compare section 71 of the Indian Evidence Act

371. Compare Br. p 299 v. 3 which is clearer. Br. p 299 v. 4 explains who is called 'lekhita' (who does not subscribe himself, but whose name is put in his presence by another on a document).

372. This explains the words 'स्वलिखितः पत्रारूढे' in 371. Compare Br. p. 299 v. 6 for a similar definition.

373. Both these are 'यदृच्छाभिज्ञ' in नारद (ऋणादान 150). The person casually coming or brought for a purpose is asked to bear witness to the transaction and although he and the 'smārita' are both not 'likhita' (subscribing witnesses), there is a difference between them inasmuch as they are not again and again reminded.

374 He is called a secret witness who is made by the plaintiff to listen while remaining concealed to the clearly expressed words of the defendant in order to establish his own object.

375 That witness is called uttara (indirect) who deposes as a witness over and above the (direct witnesses) because he listens (to what they have seen) or is made to hear what they have heard

376. He should be known as a secretly moving witness (gudhacāri) and also as one intimately bound up in the transaction (kāryamadhyagata) to whom something has been divulged through confidence or a transaction has been communicated in confidence (by both parties)

377 Where the plaintiff (i e the creditor or one party to a transaction) is dead there the witness is called 'mṛtāntara' (separated by death) and where the defendant (i e debtor &c.) is dead there also the same (term) is ordained (for the witness).

(Proclaiming the weak points of witnesses)

378 Whatever faults there may be in documents or

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374 Compare Bṛ p 299 v 5

375 This is the same as Bṛ p 300 v 11 Bṛhaspati gives two verses on uttara, the other being on p 300 v 10 They are not really two definitions but one Vi VIII 13 says उद्दिष्टानि श्रुत देशान्तरगते वा तद्भिलिखितात् प्रमाणम् which is the same as Bṛ p 300 v 10 When a direct witness is about to die or to go to a foreign land a person who hears what he says about a transaction witnessed by him becomes an uttara witness Vide notes to V M p 65 for further explanation

376 We must distinguish between gūḍhasākṣi defined in 374 and this Dr Jolly translates both as secret witness This is the same as Bṛhaspati उभाभ्यां यस्य विश्रुत &c (quoted in वीरमित्रोदय p 145 and अपरार्क p 667) It is better to read उभाभ्यां for हाभ्यां as Vir and Apar do गूढचारी and कार्यमध्यगत are two names for the same kind of witness If we read गूढधारी (who holds the secret of both parties) that would be a better reading but it is not well supported. Dr Jolly's translation of Bṛ (p 300 v 12) is not accurate

377 When the party for whom a witness is to depose is himself dead that witness is called mṛtāntara and he ceases to be a witness Vide

witnesses they should be proclaimed at the time of the trial (The judge) should not hold the witnesses ineligible (on account of faults) after they have deposed

379 After a matter has been narrated (by witnesses) he who would point out faults in witnesses in whom he did not find fault at first and who cannot set out (a proper) reason (for not proclaiming them at first) should be fined in the first ammercement.

380 (A litigant) should not challenge the means of proof (witnesses here) by (pointing out) faults that do not exist, if he were to make a false charge (about the faults of witnesses) he would be liable to fine and would also lose his claim that he wants to establish

381 When the defendant or the plaintiff attempts to establish faults in the witnesses (cited by his opponent), it is not (to be deemed) a separate proceeding (and therefore as irrelevant) because it (establishing faults in witnesses) is useful in (deciding) the matter in hand

382 The faults of witnesses (cited by a party) should be declared by (his) opponent in the open court, after writing

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Nār p 83 v 165 and p 66 v 94. Vy Māt p 326 explains that a witness becomes 'mṛtāntara either when the creditor or debtor for whom he is to depose is dead, or when the subject of the transaction viz the slave bull or chattel) is dead or lost Nār p 82 v 157 mentions 'mṛtāntara as the last of the five classes of witnesses who cease to be so

378 Here uktān qualifies witnesses and means uktavataḥ (when they have deposed) Vide notes to V M p 74 for further explanation. This is the same as Bṛ p 302 v 25 where Dr Jolly translates differently

379 First ammercement This is a fine of 250 paṇas or 270 paṇas (vide Manu VIII 138 and Yāj I 366)

380 Vir (p 164) reads 'vāpi and so holds that there is an option (viz. he may either be fined or lose his cause)

381 When faults are pointed out in a witness tending to affect his veracity or character, that is part of the trial of the suit and not a separate proceeding, but if further witnesses are allowed to be cited to prove the character attributed to him, then it would lead to

them all down on paper (or leaf) and then (the witness) should be made to reply to them (to meet the faults)

383 In case of the admission (of the faults in the witnesses cited), they do not deserve to be witnesses (in the the cause tried), if it be otherwise (i. e if the faults be not admitted), they (the faults) should be established by the opponent by offering proof of them

384. The opponent not clearly establishing the faults (pointed out in) the witnesses should be made to pay a fine, all the witnesses that are established (as faulty) become bereft of the character of (proper) witnesses

385 (The judge) should discern the (real) intention (or mental state) from the outward manifestations (such as sweat horripilation), the gestures (looking down at the ground &c.) and physical movements the litigant becomes a losing party and he is found out (to be so) by inference (from the signs mentioned above)

386 Shaking (of the body) perspiration languishing (of the body), dryness of lips licking (of the corners of the lips with the tongue), scratching the ground (with the toes), restlessness (lit. leaving the place where one stands) looking sideways or upwards (towards the sky), change of voice— these the wise declare to be the signs of a false (party or witness)

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examination of witnesses *ad infinitum*, as these latter witnesses again may be attacked by examining others and so on Vyāsa quoted in अपरार्के व्यवहारमातृका and स्मृतिच॰ makes this clear साक्षिषु साक्षिष्वपि साक्ष्ये दूषण पूर्वसाक्षिणाम् । अनवस्था भवेद् दोषस्तस्मात्पन्यसमाद ॥' Compare sections 146 and 153 of the Indian Evidence Act.

384. We should understand doṣam after sākṣiṇaḥ and connect sphuṭam with abhāvayan'

385 This verse primarily applies to the parties but the same rule holds good in the case of witnesses Prativādī here stands for both the sides (each of which opposes the other). Compare Manu VIII 25 26 for almost the same ideas and words. These signs do not decide the matter but they raise great suspicion and they make the judge and *sabhyas* scan the whole evidence very carefully

386 Compare Yāj II 13 15 and Nār p 90 v 193 196 Vi. VIII 18 for similar signs The reading vs varṇaym (losing colour, paleness or darkness of face) is better and is supported by the text of Yāj

or less (than what is alleged in the plaint), then the entire claim does not certainly succeed

397. When witnesses depose only to a part of the matter alleged (in the plaint or reply) in charges of adultery, hein- ous crimes (*sāhasa*) and theft, the whole of the matter that is alleged may be held proved.

398-399 Where (the statements of witnesses) are less or more (than what is affirmed by the parties), the deposi- tions of witnesses should be omitted (from consideration); the witnesses in such a case are not liable to fine; he (witness) deserves to be fined if he does not depose (to what he knows). When the depositions of witnesses are in conflict as to the place, time, the amount of money, the number, colour, the species, the form or shape and the age (as stated in the plaint or reply), the wise say that the depositions are (as good as) not given.

400-401. When several matters have been definitely as- serted (in the plaint or reply), if the witnesses, when the time for deposing arrives, do not make a statement coinciding with the

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or less than the claim, the whole claim is not established i e by the mere proof of a part, the whole claim will not be awarded, as there will be doubt in the court's mind as to the truth of the claim. He will then have to adduce other evidence to prove the claim. Compare Yāj II. 79, Nār. p 96 v 234 and Br p 303 v. 32 for the same proposition. Vide verse 219 above, which applies where the opponent totally denies every item of the claim and the plaintiff establishes some of the items claimed Verse 473 applies where a son is called upon to pay his father's debts and he says he does not know There he cannot be said to deny the whole claim and so the princi ple of verse 219 cannot apply. Vide verse 385 for 'sthirakarmasu' applied to 'debt and the like'. In 397 it is laid down that even when witnesses are cited to prove all facts stated in the com plaint about certain heinous crimes and they depose to only some of them, the whole may be held proved.

398-399 This applies to civil disputes like recovery of debts, as in 396 For the fine for not giving evidence vide Yāj II. 76. For 399, compare similar provisions in Nār. p 96 v. 233 and Br. p 393 v. 33

400-401. Verse 400 is the same as Nārada, ṛṇādāna 232, and 401 is almost the same as Nārada, ṛṇādāna 234 It would be better to read 'anuktam' in 401. As both these verses do not add to what

statement (in the plaint or reply) that testimony becomes no testimony Where witnesses depose to matters either more or less (than those in the plaint or reply) that should he regarded as improper (testimony), this is the certain conclusion about (the testimony of) witnesses

(*Faults of witnesses and fines imposed on them*).

402–403 If deposing to everything even when not asked or not replying to what is asked, witnesses should be arrested, censured and fined according to the (rules of) law In the case of abuse (defamation or libel) and in case of deceit they (witnesses) should be made to pay a fine of three hundred (panas) and in disputes about (recovery of) debts and the like, they should be made to pay the amount of fine and also the debt (in dispute)

404 A witness who has not been appointed (as a witness at the time of the transaction in dispute) or who is not summoned (as a witness) or who is not pointed out (as a witness) should be fined, since he is a vile person when he deposes saying 'this is true, that is false'

405–406 If one who has witnessed a transaction would not depose as a witness he would have to bear (i e pay) the debt (in dispute) and an equal amount of fine, but in disputes other than this (i e other than debts) he deserves to be fined three hundred. Witnesses who, having first said one thing, depose contrary to that should be fined, since they are full of deceitful words

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is stated in 396 398 it is probable that Sar ascribed them to Kāt through oversight. Kaut. says साक्षिणश्चेदभियोगादूनं ब्रूयुरतिरिक्तस्याभियोक्ता च स दद्यात् अतिरिक्तं वा ब्रूयुस्तदतिरिक्तं राजा हरेत् (text p 176) Vy Mat. (p. 312) has a long note on verse 400 in which he refutes at length the views of Yogloka on this verse.

402–403 Compare Gautama XIII 6 'अवचनेऽन्यथावचने च दोषिणः स्युः' Yāj II 77, Br p 303 v 31 and Vi VIII 37 The Sm. C notices that in v 403 'they' refers only to witnesses who do not reply to what is asked

405–406. For 405 Compare Manu VIII 107 (which prescribes a fine of one tenth of the debt in dispute) Yāj II 76 (who also prescribes only one-tenth). Kaut (p 177) cites the view of the Mānavas कूटसाक्षिणो यमर्थमभूतं वा नाशयेयुस्तद्दशगुणं दण्डं दद्युरिति मानवाः Here, 'das agunam' is probably a wrong paraphrase of 'das'abandham in Manu VIII. 107

387. Witnesses should give their deposition inside the hall of justice and not anywhere else; this is the rule as regards all oral evidence, but it is otherwise as regards immovable property.

388. Witnesses should depose in the presence of the plaintiff and the defendant and near the matter to be established (in the suit) and never behind the back (of the parties).

389. Depositions should be taken down near (lit. over) the matter (in dispute) and in some cases even in places other than these two; this is the rule in (disputes about) quadrupeds and about bipeds and immovable property.

390. In all judicial proceedings (lit. where proof has to be given) witnesses should be made to depose even in the absence of things that are to be weighed (like gold), that are to be counted (like coins) or that are to be measured (like corn), but not in other cases.

391. In the case of the killing of living beings, witnesses should be made to depose in the presence of (an image of)

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387. In the case of immovable property, the evidence may be taken on the property itself.

389. The words 'tayorapi vinā kvacit' are explained in one way by Sm. C. and Par. M. and in another way by V. M. and Vir. The former say, witnesses are to be examined in court and may be examined also on the immovable property in suit. These are two places (tayoh) for the examination of witnesses, but in rare cases (kvacit) depositions may be taken elsewhere as said in verse 391. According to V. M. and Vir. the word 'kvacit' is illustrated by the latter half i. e. in disputes about cattle &c. or about slaves &c. depositions may be taken near the subjects of disputes and 'tayoh' is taken by V. M. to refer to the parties.

390. When the matter to be secured by litigation is gold or coins or grain, witnesses were to depose in court even without these being in court.

391. As Śiva is the god of destruction, it was probably thought that in the case of slaughter of human or other beings, depositions should be taken in a temple of Śiva. If we read 'Śava—', as the Par. M. does, the verse can be more easily construed. It would mean: witnesses should depose near the corpse, or in its absence

Śiva, but (this should be done) in the absence of any marks (of the animal killed or of killing), but when it is otherwise (i e when some mark exists) the witness should not be made to depose at all (in the temple of Śiva ?)

392 The words of the witnesses when free from faults should be *taken down as naturally narrated by them*, when the witnesses have stated (what they know) they should not be questioned by the king again and again.

393. Whatever the witnesses narrate naturally should be accepted as useful for deciding the legal proceeding, whatever they say otherwise than in this way is useless for the purpose of (finding out) the truth

394-395 Whatever was observed by witnesses in a group should be deposed to in the same way (i.e simultaneously) but what was seen by each separately should be deposed to separately When a certain matter was known (perceived or experienced) by witnesses at different times they should depose separately and at different times This is the view of Bhṛgu

396 In disputes about recovery of debts and the like which are of a permanent character, if witnesses depose to more

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near some mark (such as horn &c) of the animal killed Here 'tadabhave means Śavābhave but if we read Śiva then 'tadabhāve cannot mean Śivābhāve (as temples of Śiva must have been found everywhere in Kātyāyana's day) and that there means sākṣyam and abhāve is to be connected with 'cinhasya The Vir (p. 168) goes so far as to explain that when there is a mark then there is no need of deposition of witnesses Vide my notes to V M p 75

393 Naturally means without fear and the like

394-395 It is noteworthy that earlier writers like Aparārka ascribe these verses to Kat while later ones ascribe them to Vasiṣṭha Compare Gautama XIII 5 and vide Vir p. 169 which notices Haradatta's explanation.

396 397 'Of a permanent character —This refers to civil disputes like recovery of debt, in which there is no urgency while in crimes there is urgency Verse 396 lays down that if witnesses are cited for proving the whole of a claim and they depose to more

407 (The king) should seize all the wealth of the man who through the greed of (winning) the cause cited false witnesses and should then banish him from the country

408 When a matter (in dispute) has been established by the plaintiff by means of witnesses, if the defendant were to prove that matter to be otherwise by more witnesses (than those for the plaintiff) or by witnesses of better family, then the witnesses first deposing become false

409 When the means of proof are shown to be faultless according to the rules of law, then comes the (business of) testing of their statements (lit sentences) The fixed rule is that that matter must be regarded as faultless which follows from faultless testimony

410 Where a witness tells a falsehood, it would be found out in a week or two weeks or three weeks or 46 days (in the guise of) disease fire or death of (near) relative (befalling a false witness) according to the difference in the material (in dispute) or the caste (of the witness)

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407 Vide Manu VIII 123 which according to some interpretations prescribes the drastic punishment of death or cutting off of the tongue for persistently engaging in false claims and banishment to brahmanas, and Mit. on Yaj II 81 (which gives various interpretations of Manu VIII 123)

408 Witnesses of better family — this is only illustrative and means witnesses who are of better character or standing or more meritorious Vide Yaj II 80 The Mit on Yaj II 80 does not accept this interpretation and says that the texts of Yaj and Kat apply to a case where the plaintiff cites a number of witnesses some of whom are near and some far off and examines only those who are near and is about to fail on their evidence when he should be allowed to examine better witnesses from far off if already named

409 Kriya means the pramanas viz. documents witnesses, possession Śuddhi means removing or absence of the several faults as to writings and witnesses laid down in the Śastra This verse must be connected with verse 340 above which enjoins upon the judge the duty of scrutinizing the statements of witnesses.

410 This verse means that the king should wait for a week or two weeks &c after finding a witness to be false to see if any of the calamities mentioned befall him and then fine him Compare Manu VIII. 108 (for waiting for a week) and VIII 120 121 (for fines for perjury) Jati may also mean the species of the thing in dispute Sar (p 150) quotes Visnu [illegible]

(Ordeals and their assignment according to the several titles of law)

411 No one should appoint the plaintiff (or complainant) to the (undergoing of) ordeals Those who are experts in ordeals should offer ordeals to the defendant (or accused)

412–413 The ordeals of balance and others should be appointed in the case of those who are suspected by kings (of treason, sedition &c) for proving the purity of their intentions In such cases no undertaking to pay fine should be laid down (as a condition before ordeal is offered) The ordeals of balance and others should be appointed in the case of those who are labouring under scandals among the people and who are suspected of association with dasyus (robbers) In such cases there is no undertaking to pay a fine (as a condition before ordeal is offered) (This is the view of) Bhrgu

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411 This states the general rule about offering ordeals Vide Nār p 101 v 257 and Yāj II 95–96 which say that when the plaintiff files his action with the undertaking to pay a fine or undergo bodily punishment if he were defeated, ordeals were to be offered to defendant or there is an option i e by mutual agreement any one of the parties may undergo ordeal The Chāndogya Upaniṣad (VI 16) contains one of the oldest and clearest references to ordeals Among the older Dharmasutras Āpastamba (II 11 29 6) refers in general terms to divine method of proof but gives no details Manu only (VIII 109–116) refers to administration of oaths and alludes to ordeals of fire and water (VIII 174) Vi IX– XIV speaks of five ordeals (of balance fire water, poison and kośa) Yāj II 95 speaks of the same five but seems to have known of phāla also (II 99) Narada (in ordeals verses 251–348) adds the ordeals of taṇḍulabhakṣana and taptamāṣa to the five of Yaj and Vi., Bṛhaspati (Br p 315 vv 4 5) and Pitāmaha speak of nine (adding phāla and dharmaja to the seven of Narada) Pitāmaha gave the most elaborate treatment and about 200 verses of his on ordeals are quoted in the digests Kāt. distinctly names seven but seems to have known more (vv 460 461)

412-413 Śiras is explained as the undertaking to pay a fine if one were defeated, since fine is the fourth (and so last and most important part) pada of vyavahara depending on victory or defeat and therefore is called 'śiras' or śirṣaka In these cases mentioned in 412–413 there is no necessity to insist on somebody undertaking to pay a fine or undergoing corporal punishment The important matter is to clear one's character and so the man may at once offer to undergo an ordeal when charged with any one of them.

414 In charges based on suspicion no undertaking to pay fine or undergo corporal punishment should ever be laid down (as a condition) in offering the ordeal of ' Kośa ' Ordeals should be offered to the servants of the king without (the requirement of) an undertaking (to pay fine &c.)

415 The ordeal of ' kośa ' alone should be offered in cases of securing confidence when there is suspicion, always at the time of partition among members of the same family and when several persons do one act in a body

416 Where there is a denial of a gift (lit of a thing given), (the judge) should (first) find out the standard value of the thing in gold and should then settle which, if any, ordeal was to be offered In the case of theft and heinous crimes (*sahasa*) ordeal should be offered (to the accused) even when the subject (of the crime) is of slight value

417 Understanding the price of all things (that are the subject of dispute), (the *judge*) should find out (their equivalent in) gold and then he should appoint the (proper) ordeal in accordance with the amount of gold (in dispute)

418-419 After ascertaining (for the value of the subject matter in dispute) the number of *suvarnas* it is declared that in the case of denial (by the accused or defendant) of a hundred (suvarnas) poison (is the proper ordeal), for

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414 ' Kośa ordeal is always meant only for proving ' cittaśuddhi, so it is to be undergone without an undertaking when one is simply suspected In plaints of a serious character even the ordeal of kośa cannot be offered without an undertaking Vide Yāj II. 95 For latter half, compare Nār p 105 v 270

415 Kriyāsamūhakartṛtve may also mean where there are several persons on whom the burden of proof lies in various ways. Vir p 220 explains as above Kośa ordeal consists in drinking three handfuls of water used in bathing the [illegible] gods like Durgā, the Sun at the time of worship Vide Yāj II 113, Nār p 116 v 339

417 Compare vi. IX. 4 सध्यवार्थेऽर्थेषु मूल्य दत्त्वा वक्ष्येत् '

418-419 The Mit. says that Yāj II 99 (that neither the ordeal of ploughshare nor poison nor balance was to be offered up to a

denial of eighty suvarnas (the judge) should offer fire For denial of sixty (ordeal of) water should be offered, and for forty (ordeal of) balance for the denial of twenty or ten (suvarnas) drinking of sacred water (kośa) is prescribed.

420 421 In denial of more (suvarnas) than five and up to one fourth of that the ordeal of tandula, but in the denial of one fourth of the last (the person should touch) the head of his son and the like, in denial of one fourth of that it is declared that ordinary modes of proof (viz oaths) should be employed A king thus deciding (disputes) does not fall away from *dharma* (righteousness) and *artha*

(The offering of ordeals according to the castes and avocations of the plaintiff and defendant)

422 (The king) should appoint the ordeal of fire for a Kṣatriya balance for a Brahmana and water for a Vaiśya or he may appoint any ordeal for all castes but the ordeal of poison is to be eschewed in the case of a brāhmana

423 (The king) should offer (ordeal) to the members of the three higher castes who are cowherds, traders, artisans, bards servants and usurers as if they were śudras

424 He should not offer ordeal of fire to blacksmiths and water to those who ply watercraft and never poison to those who are experts in *mantras* (incantations) and *yoga* practices he should not appoint tandulas to him who is observing a vow (such as subsisting on milk alone) and to one suffering from mouth disease

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thousand) refers to a thousand copper panas Compare Br p 316 vv 9 12 For suvarna vide notes on verses 493 494 below

420 421 More than five means six and upwards ¼ of six and over would be 1½ and more Should touch the head of his son This was a kind of special oath Compare Manu VIII 114 and Nar p. 100 vv 247 250 The V M (text p 46) quotes a verse of Narada not found in Dr Jolly's edition स्पृशेच्छिरांसि पुत्राणां दाराणां सुहृदां तथा । अभियोगेषु सर्वेषु कोशपानमथापि वा ॥ which is similar to Manu VIII 114 The three goals of life are dharma artha and kama Vide Kant I 7 Philosophers add a fourth moksa

422 Compare Nar p 117 vv 334–335

424 Compare Vi IX 26 and Nar p 101 v 255

425. He should omit fire (ordeal) in the case of those who are lepers and water in the case of those who suffer from difficulty in breathing and cough; he should always omit poison in the case of those who suffer from (excess of) bile and phlegm.

426. The ordeal of kośa (sacred water) should not be offered by the wise to drunkards and persons addicted to women, to gamblers and those who are irreligious in their life.

427–430. A king bent upon dharma should not prescribe ordeals for those who are charged with killing their mother, father, a person of the three higher castes, a teacher, a child, woman and king, those who are guilty of the grave sins and particularly those who are irreligious, those who wear (or subsist by means of) peculiar sect-marks, those who are great rogues, those who are experts in *mantras* and *yoga* practices, those who are the progeny of mixed unions, those who repeatedly engage in sin and in charges of the above description and in all other censurable matters. The king should offer ordeal (in the case of these men) to good men appointed by these (to undergo an ordeal); where good men do not desire (to undergo ordeal for them), the king should test their innocence by (offering ordeal) to their own men (i. e. their relatives and friends).

431. Ordeal should not be offered (to be performed in person) to those who are guilty of grave sins and specially to those who are irreligious and to those who are addicted to repeated commission of sins.

432 In these disputes (the king) should vigilantly make (the persons charged) undergo the ordeals through good

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425. Compare Vi. IX. 29 and Nār. p. 101 v. 255.
426. Compare Nār. p. 117 v. 332.
427–430. For the five great sins vide Manu XI. 54. What is meant is that these persons should not be called upon personally to undergo an ordeal and it is not meant that ordeals should not be employed in their cases
431. This practically repeats the latter half of 427 and the last quarter of 428

men (though) forbidden (to them in their own person), he should not leave the person charged of sin (without testing his guilt or otherwise by ordeals), (this is the view of) Manu

433 But in the case of the untouchables the lowest castes, slaves, mlecchas and those who are the offsprings of mixed unions in the reverse order of castes when guilty of sins the determination (by the above named ordeals) should not be done by the king He should indicate such ordeals as are well known among them in case of doubt (about their guilt).

(The proper place of ordeals)

434–435 (The king) should employ (ordeals) in a well known temple in the case of men who are accused of the grave sins and near the royal gate in the case of those who engage in treason Ordeal should be offered in a public square where four roads meet to those who are the progeny of mixed unions in the reverse order of castes, the wise declare that in cases other than these ordeals should be offered inside the *sabhā* (hall of justice)

436 He (the king) should appoint whatever ordeal is proper, when the time or place is in conflict (is not appropriate), he should make another (a person appointed by the

433 When a male of a lower caste enters into union with a woman of a higher caste than his own it is said to be a *pratiloma* union The Divyatattva (p 579) of Raghunandana explains that the ordeals well known among these people are those of the snake in the jar and the like This explanation is copied by the Vir p 238 and the V M p 49 The Sm C explains that this rule is to be followed when relatives appointed by them for undergoing ordeals cannot be had

434 435 The Par M explains Indrasthana (lit place of Indra) as implying any temple of a well known deity while the Divyatattva explains it as place where the banner of Indra was raised and the Vir p 241 follows this The Indradhvaja was a festival in honour of Indra in the bright half of Bhādrapada from the 8th to the 12th (11th being the principal day) Vide the Bṛhat-saṃhitā of Varāhamihira chap 43 Compare Nār p 104 v 265 which says that the balance was to be planted near the royal gate or near a temple or where four roads meet

436 Vir p 238 and V M p 49 reads -śāstravirodhe (when the

accused) undergo the ordeal, this is the rule when the opposite is the case (i e when the accused cannot undergo ordeal in person)

437 When (ordeals) are administered at an improper time or place and when they are performed outside human habitation (i e in a lonely place), they always fail as to the matters in hand, there is no doubt about this

438 If the means (i e the ordeal employed) fails, then the matter to be decided should again be investigated (by other ordeal), even when ordeals are offered by fools, greedy persons or by others who are vitiated (by some defect or other) and undergone they should be ignored by the king and he should offer them again in accordance with what is said above

439 Therefore an ordeal should be administered according to the rules prescribed by persons expert (in those rules) If an ordeal is administered against the rules, it is not capable of establishing that (matter in hand)

440 When the scales or the balance or the rope breaks and when there is a doubt as to whether (a man's) innocence has been established, (the king) should again test the man (by ordeal)

(*The procedure of fire ordeal*)

441 If the accused (undergoing the fire ordeal) misses his footing or is burnt elsewhere than in the proper place the gods declare that it is no burning, the king should again offer him (fire ordeal)

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time and place do not conflict). This seems to be better

437 The idea is that they cease to be decisive of the matters in dispute when so administered Dr Jolly (Nār p 250 v 15) renders constitute a deviation from the proper course of a law suit, but this is not accurate

439 Br p 317 v 18 is almost the same verse

440 Compare Vj X 13

441 'The proper place' viz the hands in the fire ordeal (and not other parts of the body)

(The procedure of the water ordeal)

442 445 For establishing innocence (by water ordeal) he should make ready arrows the points of which are not made of iron and which are made of pieces of bamboo and the archer (lit the person throwing) should throw (the arrows) with great force When (the arrow) is discharged (the accused) should dive (into water) and simultaneously with the diving (another person) runs (to the place where the *arrow fell*), *when he reaches that place*, (*another man*) starts back (from the place to the place whence the arrow was shot) and another man stands in water (whose thighs the man undergoing the ordeal and diving holds underneath the water) If only the head (of the accused) diving in water be seen (by the person who returns to the place whence the arrow was shot) and neither the ears nor the nose, then he (the king) should declare him to be innocent If a man after diving again rises up (over the water), being bitten by an (aquatic animal), he should again dive into the water when the marks of the bite have been shown

(*Procedure of the ordeal of poison*)

446 That is known to be the Sārgina poison which resembles the horns of a goat is dark and yellow and produced from the peaks (of mountains) and looks like ginger when crushed

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442 445 Vide my notes to V M p 103 for the whole process of the water ordeal In 444 read śiromātram vide Nar pp 111 113 verses 305 312 for a complete description of this ordeal He should again dive into the water —i e he should undergo the ordeal again We should read in 445 with the Divyatattva (p 601) daṣtah and daṁśac hna

446 It is better to read supitam and śārng nam Nar (p 115 v 322) speaks of Śarṅga poison from the Himalayas as the poison to be given in ordeal and Kat appears to be explaining it Dr Jolly translates śārṅga as from śrṅga plant which is doubtful Visnu XIII 3 has [illegible] and Yāj II 111 एवमुक्त्वा विषं शार्ङ्गं भक्षयेद्धिमशैलजम् *That is said to be Śrṅgaka* poison which being tied to a cow s horn makes her milk blood red

447 That (poison) makes the blood dark and hard (clotted) in a moment In this way those who are expert in ordeals should know (this) ordeal.

448–449 That should be known as Vatsanābhaka, which is yellow and like the navel of a calf and appears like mother-o pearl and conch when crushed, it is known for certain from its colour It should be at once made pure by adding to it honey and milk. Those who carry out (the dictates of) dharma declare the outward signs (of poison) in this way

450 One should give poison (as an ordeal) to a person in the forenoon and in a cool place The poison should be mixed with 30 times of ghee and should be pounded into fine powder

451 He should give to the person to be tested (by poison ordeal) poison less by one-eighth from the 20th part of the sixth part of a *pala* of poison and it should be mixed with ghee

(The procedure of the ordeal of sacred libation)

452 In the case of slight wrongs (or crimes) the person charged should be made to drink the water of the weapons of the deities after bathing them (in worship) if he undergoes change he should be declared to be guilty and should be punished, but if otherwise he (should be declared to be) innocent

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451 *Pala* is equal to 960 *yavas* Vide Manu VIII 134–135 1/20 of 1/6 of a *pala* is equal to 8 *yavas* and when one-eighth is deducted it is seven. So seven *yavas* of poison were to be given as a general rule This verse is the same as Nār p 115 v 323 Verse 324 of Nār says that seven or eight *yavas* may be given in winter, only five in summer and six in the rainy season

452 If he undergoes change' i e if some calamity befalls him (as indicated in vv 410 and 457). Nār p. 116 v 330 Br p 311 v 24, Vi XIV 4–5 say that if he meets with a calamity in a week or fortnight it shall be regarded as proof of his guilt. Compare for the kośa ordeal, Yāj II 112 Nār p 116 v 329, Br p 318 v 23 (whatever deity the accused happens to be devoted, let the judge bathe the weapon of that deity in water and give him to drink three handfuls of water).

(*The procedure of the ordeal of tandulas*)

453 In the case of the ordeal of the water of the bath of deities and in the ordeal of chewing rice the accused (is declared to be) innocent if what he spits out is pure (not streaked with blood) if otherwise he is guilty and should be punished

454 (The king or judge) should make the plaintiff (or complainant) who attacks (the defendant) with pride pay a fine and also the subject matter of dispute, when the defendant is found to be innocent by means of the *kosa* ordeal A religious king should honour the person who is (found to be) innocent by means of an ordeal

455 Where (in an ordeal of tandula) blood is seen (i e issues forth from the mouth) or the hair on the chin sink (ar) shattered or fall off) and the whole body trembles (the judge e should declare the man to be guilty

456-457 (The judge) should sedulously make the ac cused pay, after three weeks in case of the befalling of fateful calamities (on the defendant undergoing the kosa or tandula ordeal), a fine and the subject of dispute If any one of the following befall him alone and not all people (in the neigh bourhood,) viz disease, fire, the death of a near relative (like son or wife) then he should be made to pay the fine and also the debt (i e subject of dispute)

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453 It is better to read as V M does 'dugdha for dvye The Tandula ordeal was administered in case of theft only and in it grains of rice were placed in an earthen vessel in the sight of the image of the Sun and after pouring over them water in which an image of the sun had been bathed and keeping them in that way for the night the judge gave the water to the accused in the morning Vide Nār p 118 vv 338 342 and Br p 318 v 25

455 This is Nar p 119 v 342 where we read दन्तजाल च शीर्यते whose tooth flesh is shattered for हनु etc

456-457 Daivav samvada it means the non correspondence shown by fate ' Verse 458 enumerates some of the strokes of fate from which one was to judge Compare Nār p 116 v 350 If many people suffer from an epidemic (including the person undergoing an ordeal), that was no sign for the inference of guilt or defeat and the disease must be serious and not slight

458 The diseases brought on men by (the wrath of) Fate are tuberculosis, diarrhœa, boils pain in the palate and bones eye disease throat disease and so also seizure (by evil spirits) headache, fracture of the arms

459-461 (The king) should cause fifty (paṇas) to be paid by the man who is found innocent (by ordeal) and one who is found guilty (by ordeal) is liable to pay a fine In the ordeals of poison water fire, balance sacred libation rice grains, and in the ordeal of taptamāsa (the judge) should prescribe a (special) fine (for the defeated party) of a thousand paṇas six hundred five hundred four hundred three hundred two hundred or one hundred respectively and a lesser fine in the case of lesser ordeals (than these)

(*Procedure of Oaths*)

462 Where some (religious) rite is enjoined but there is no express mention of the limb of the person doing (with which it is to be done) there the right hand is to be understood as meant for carrying out to the end the rites (enjoined)

463 He on whom no terrible calamity due to king or fate befalls up to the fourteenth day should be regarded as pure by taking oaths

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459 461 The fifty paṇas that the innocent man has to pay is not a fine but is in the nature of return (modern court fee) to the state for the services of the judge etc Compare Vi VI 21 for successful plaintiff paying 1/20 (to the king) Verses 460 461 specify the special fine to be paid on account of defeat by the several ordeals in addition to the fine laid down for the defeated party by Manu VIII 59 and Yāj II 11 Vide Mit on Yāj II 113 For taptamāsa vide Nār p 119 vv 347 348 Br p 313 v 26 and V M pp 83 84 (text) which last gives two varieties of it

462 This occurs in the Kātyāyanasmṛti (I 8 on ordeals published by Jivananda in his collection vol I This means that if a person was to touch the head of his son or wife as a special oath he was to do so with the right hand

463 This is practically the same as Yāj II 113 Compare Manu VIII 115 For the various forms of oaths vide Manu VIII 113 114 Nār p 100 v 248

(Consideration of the transactions entered into by those who are lunatics or dependent and the like)

464 What is gifted or done by one intoxicated or one who is a lunatic or by one who had a different intention, that does not at all attain validity

465 The master may cancel a transaction entered into by one who is dependent (on him) The other party cannot file a suit against the master (on such a transaction) except as regards transactions entered into by those who were under a fear or those who were mad

466 The father is independent (is his own master) but (the son) whose father is living the brother (whose elder brother is living) the brother's son a younger member who has not partitioned his share of the family wealth, a slave and a menial (are dependent)

467 471 The gift, mortgage and sale of fields, houses and slaves entered into by those who are dependent do not attain validity if they are not approved of (by those on whom

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464 Vide verse 271 above Who had a different intention This means that both parties to a transaction must take it in the same sense If the executant thought that he was executing one transaction (e g a mortgage) and what was actually written was a different one (e g a sale) then he could avoid Compare Kaut III 1 (p 143) तथापि क्रुद्धा तेन मत्तेन मत्तेनाभिगृहीतेन वा कृता व्यवहारा न सिध्येयुः ।

465 Transactions entered into by those who are coerced or those who are mad can be annulled only by the king hence they are excepted but transactions entered into by those who are declared to be *asvatantra* on behalf of their masters can be repudiated by the master himself Vide Nār pp 50 51 vv 33 34 for an enumeration of those who are *asvatantra*

466 Read pitṛsvatantrāḥ and understand asvatantrāḥ after 'pitṛmān' Compare Nār p 29 vv 29 31 (for son slave and younger brother) and Kaut III 1 (p 143)' मिथ समवाये ... [illegible] ... न &c

467 471 'When they are supported' etc i e when they enter into the transactions with the permission or approval of their masters. For the propositions in 467 470 compare Nār pp. 48-50 vv 26-27 and 29 and for 470 compare Bṛhaspati [illegible]

they are dependent) All these (dependent persons) have authority for the sale an l purchase of marketable goods, if they are supported (by their masters) when they enter into the transactions In the same way the (younger) brother, the brother s son or the son (have authority for the sale &c) of fields and the rest if they are appointed (authorised) to enter into these transact ons by tl eir elders when going (abroad) Who ever is appointed to do a certain act is master as regards that matter and his master has no power to undo the transact on entered into by him The dependence (on the father or husband) of the son or of tl e wife (cons sts only) in h s (father s or husband s) right to control them (or their actions) but the father has no power over the son so far as selling or g fting him is concerned

(Decision of the suit)

472 Purification is declared by those who know the es sence of śāstras to be the remedy (for wrong-doing) it is two fold viz prāya c tta (exp atory rites) and punishment

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कुमीऽकृपिपाणिस्त्र निसृष्टायस्तु स स्मृत । प्रमाण तत्कृत सव लाभालाभव्यय स्मृतम् । स्वग्रहे वा वि ने वा स्वामी त न विसवन्तु । quoted in स्मृतिच० III p 308 Vide Br p 208 vv 7 6 This shows that Kāt uses the very word निसृष्टार्थ used by बृहस्पति As to 471 several po nts have to be noted Ancient wr ters appear to have held that a father could even sell h s son The N rukta (III 4) refers to the view of some who rely ng on the story of Śunahsepa in the Aitareyabrahmana held that the father could gift, sell or abandon h s son The Vas sthadharmasutra (XV 2) says that the parents have power to g ve sell or abandon their son Ma u VIII 416 and the Mahabharata (Udyoga 33 64) say that all wealth acqu red by the son the w fe and the slave belongs to h m to whom they belong The M t comment ng on Yāj II 175 and the Vir (p 567) hold that a man has o nersh p over his wife and ch ldren But t is refresh ng to find that Kāt holds the opposite v ew and that the V M text p 92) d st nctly states that there is no ownersh p over the w fe or cl ldren. Kaut. (III 13 p 181) notes that it is no crime for mlecchas to sell or hypothecate the r ch ldren but the Āryas cannot do so

4 2 We must read da lasca

473 In claims containing various items, the creditor (or plaintiff) secures (a decree for) as much property as he establishes (to be his) by means of witnesses

474 Where the defendant, after having totally denied (the whole claim in the reply) has to admit even a small part before (the court) he should be made to pay the whole This is the view of Bṛhaspati

475 In this way (the king) occupying the seat of justice, should decide the causes with the advice or help of brāhmaṇas in the presence of the litigants and not otherwise

476 The king after having himself looked into the judicial proceedings or after learning about them from the judge, should give a document of victory (to the successful party) for the purpose of information (to all)

(Rules about punishment)

477 478 The king should make a brāhmana return (a debt due) to the creditor by conciliatory words, make others return a debt according to the usage of the country and should make bad people repay (their debt) by means of physical pain (i e imprisonment &c) (The king) should make

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473 According to the Sm C this applies where the opponent is not shown to be very wicked while according to the Mit. (on Yāj II 20) this applies to a case where a son when called upon to pay his father's debt replies that he does not know or that he was not then present or born Vide notes on 396 above

474 If we read mithyālpamapi etc the meaning would be 'having denied everything in the reply of denial if he admits even a little' Compare Vi VI 22

475 Compare Manu VIII 1 2 Yāj II 1

476 Vide vv 259 265 above for paścātkāra and jayapatra. Compare Br p 298 vv 3 4 Vide Journal of Bihar and Orissa Research Society vol VII p 117 for a jayapatra dated 928 A D

477-478 Manu VIII 49 says that a creditor was to recover his just debts in five ways viz dharma (conciliatory but truthful words) by vyavahāra (by suit) chala (trick viz. bringing ornaments etc. from debtor under the pretext of a festival) ācarita (fasting at his door) and by force (i e putting fetters on him) When a creditor employed these means to recover a debt that was admitted he was not to be found fault

a coparcener or friend (of the successful party) pay by means of a ruse and also traders, husbandmen, and artisans This is what Bhrgu declared

479-480 On knowing (the debtor) to be unable to return the debt, (the king) should make him over (to the creditor) and make him work If he be unable to work, he should be sent to jail except in the case of brahmanas. He should make husbandmen, ksatriyas, vaisyas and sudras repay (a debt) by making them work

481 Punishment is not at all prescribed (by sacred

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with by the king (vide Yāj II 40 and Manu VIII 50) but if the debtor denied the debt the only remedy was a suit Vide Br p 330 vv 55 58 for explanation of the words dharma chala ācarita and bala Sāntva stands for the remedy dharma sampridya for ācarita and bala

479 480 Compare Manu VIII 177 and IX 229 and Yāj II 43 for making the debtor (who is not a brāhmaṇa) work Punishment was either physical (from imprisonment to death) or monetary (vide Nār p 231 vv 53 54) A brāhmaṇa was not to be subjected to corporal punishment according to Manu VIII 124 and Gautama XII 43 The punishments for a brāhmaṇa were according to Gautama (XII, 44) preventing him from doing the same thing depriving him of all wealth taking sureties from him proclaiming him as a thief in the town or city banishing him, putting on him the marks indicating his guilt (vide Manu IX 237) The Sm C (III p 292) relying on Manu IX 236 and other dicta says that a brāhmaṇa could be imprisoned but he could not be subjected to any corporal punishment such as beating cutting off the hand for theft etc Manu VIII 379 says that tonsuring the head of a brāhmaṇa for a crime is equal to the sentence of death Āpastamba Dh S II 10 27 16 17 lays down that a brāhmaṇa guilty of murder theft forcible seizure of another s land was to have his eyes covered over with cloth for his life (so that he could not see anything) Though the brāhmaṇa was free from corporal punishment owing to the policy of the state in ancient India he could be imprisoned banished from the realm or could be deprived of the use of sight Even in modern times state policy prevents the arrest or imprisonment of an agriculturist in the Bombay Presidency in execution of a decree for money vide sec 21 of the Deccan Agriculturists Relief Act XVII of 1879

481 Manu VIII 129 and Yāj I 367 say that punishment is fourfold, viz saying fie on you severe reproof or condemnation in words fine corporal punishment, Br p 387 v 7 lays down which of these four is appropriate to whom and p 387 vv 5 6 say that admonition (with the word fie) is appropriate to light offences,

texts) for the preceptor, the father the mother, and also the relatives, when these are guilty of offences

482 Where an offence was committed when life was in danger, there should be no punishment at all, this is the dharma (the rule of law) declared by Bhrgu

483 (The king) should not at all award death sentence to a brahmana even though he may be guilty of any offence whatever (the king) should banish him from the kingdom with all his wealth and without any bodily injury to him

484 When (any person) from among the four varnas does not undergo prāyaścitta (expiation for offences committed) the king should prescribe (for him) proper punishment consisting of fine or corporal injury

485 If ksatriyas or brāhmanas are guilty of an offence for which a sudra is liable to be punished according to law then they would be liable to double and double (of the punishment for the śudra)

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reproof to purvasāhasa fine to middling sāhasas and imprisonment to treason &c The verse of Kāt is meant to forbid punishment by way of fine and corporal punishment only in the case of preceptors &c Compare Śaṅkha अन्त्यो मातापितरौ स्नातकपुरा हतौ परिमानस्वान प्रस्वौ न मकर्मश्रवि वीतशै चाचारवन्तश्च (quoted in Sm C III p 296) and गौ ध सूत्र VIII 12 13 षड् भे परिहार्या राज्ञा वध्यश्चाब यश्चादन्यश्चा वहिष्कार्यश्चापरिवाद्यश्चाप रेह यंश्रति । Compare the principle underlying sec 562 of the Cri Pro Code Yaj I 358 says that a king has to punish his own son or father in law &c

482 This enunciates the right of private defence of body Compare sec 97 and 99 of the Indian Penal Code

483 Compare Gautama XII 43 न शारीरो ब्राह्मणदण्ड and Manu IX 241 Vide Br p 388 v 11

484 The Par M explains that if the offending brahmana does not submit to being banished then he has to be punished just as a ksatriya would be viz. with fine or imprisonment Compare आप ध सू II 5 10 17-18 स ब्राह्मण नियुञ्ज्य त । चक्षुर्निरोधेण वधदास्यवज नियमैरुपशाषयत् । also गौतम XII 44

485 The idea seems to be that a ksatriya should be awarded double the punishment which a sūdra would be awarded for the same offence and a brāhmana four times as much

486 The king should punish a sudra who forsakes the order of sannyasins (after having entered it) and who intently practises *japa* (silent muttering of prayers) and *homa* with death (or corporal punishment) or he should be punished with double the fine

487 In the case of all offences women should pay half of the fine in money which is prescribed for a male, when (the punishment for an offence) is death in the case of males, (the punishment for women would be) cutting off a limb

488 Women who are not independent should not be arrested, it is the male (on whom they are dependent) who should be regarded as the offender (when they go wrong), they (the women) should be punished by their lord (i e the person on whom they depend), but the king should take away (for punishment) the male

489 Even if a woman whose lord has gone on a journey be consigned to jail she should be kept in confinement only till her lord returns

490 Whatever fine is carefully prescribed for an offence (in the smṛti texts) it should be understood that it is to be in kārsapanas or their equivalent (to be paid) to the king

491 Where fine of one fourth of māsa or one half of a māsa is prescribed (and then subsequently in the same con text) there is no express mention of masa in such cases one māsa should be prescribed as the fine

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486 It appears that we should read pravrajyāvasthitam for -sitam A śudra was to be punished if he entered the fourth order (aśrama) This is the way in which the Vir p 724 under stands this verse Note the well known story of Śambūka (Ramāyana Uttarakānda 74-76)

491 This verse as it stands is not clear The reading of Kulluka is clear and means that a māsa must be held to be golden where the metal is not specified Saras p 150 notices that according to Vijñāneśvara the fine of a thousand means a fine of copper panas while according to Bharuci it means a fine of a thousand glden masas and that in this matter the usages of countries should be followed

492 When the punishment (or fine) is declared to be in masas, there it should be understood that they are to be of silver and where it is declared in krsnalas there also the same conclusion about the fines declared is to be understood

493 494 A māsa is to be understood as the twentieth part of a kārsapana and a kākani is equal to the fourth part of a māsa and of a pana In the land of the five rivers this (the following?) nomenclature is in current use A kārsāpana is to be understood as Andika four karsapanas as equal to one dhānaka 12 dhānakas as equal to one suvarna which is also called dināra and citraka

(review of judgment)

495 Where a certain matter (or side) is determined

492-493 According to Manu VIII 132 134 and Yaj I 362 363 eight trasarenus (motes in sun beam) are equal to liksā 3 liksās = one rajasarsapa 3 rajasarsapas = one gaurasarsapa, 6 gaurasarsapas = one middling yava, three yavas = one krsnala, five krsnalas = one masa and 16 masas = one suvarna four suvarnas = one pala According to Yaj four or five suvarnas make one pala 4 karsas are equal to one pala and copper equal to karsa in weight is called pana or karsapana A pala therefore was equal to 64 or 80 masas and if we take a pala as equal to 80 māsas then a karsa which was ¼ of a pala would be equal to 20 masas and thus is what Kat says in the first half of 493 In the latter half of 493 Kāt. seems to follow another nomenclature Haradatta on Gautama XII 19 (पञ्च माषा गवि) quotes a verse of Usanas माषो विंशतिभागस्तु ज्ञेयः कार्षापणस्य हि ॥ काकिणी तु चतुर्भागा माषस्यैव प्रकीर्तिता । According to Bhaskarācarya s Līlavatī (verse two) twenty varātakas are equal to one kakinī and 4 kakinis equal to one pana

494 The latter two halves are almost the same as Br p 317 v 15 and both 493 and 494 almost the same as Nārada (text appendix p. 229 verses 58 60) Dr Pran Nath devotes one chapter (III) to these terms in his Economic Condition in ancient India and traces dhanaka to the Persian Danaq ?

495 The words tīrita and anuśista occur in Manu IX 233, where it is laid down that what is tīrita and anuśista should not be overturned by the king and reviewed but should be upheld Kāt explains these words in his own way Kulluka explains them

by the *sabhyas* themselves as true though it be really untrue, it is said to be *krta*, that matter is said to be *anusista* which is declared (as true) on the testimony of witnesses

496 If a party be not satisfied with the decision (of his claim) even though given by the family and other tribunals, the king should reconsider that decision and should upset what was wrongly decided

(Discourse on interest in recovery of debts)

497 (A money lender) should never hand over a loan to (dependent) women to slaves, and to minors The lender cannot recover back that wealth which he gives to these

498 That rate of interest which the debtor promised in addition (to the rate allowed by śastra) and which was promised in times of difficulty must always be given, though it is of the kārita kind, but interest of the kārita kind incurred in other circumstances should never be paid.

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as ' decided according to the rules of astra and taken so far as to recover the fine from the defeated party ' respectively The verse of Manu even as interpreted by Kull ka forbids review of judgment on the ground that a litigation was fought out by women &c or forbids a review solely at the king's pleasure But where the sabhyas are clearly wrong or where witnesses have borne false testimony a review was allowed Narada also uses the same words (Nar p 23 v 65) and allowed a party to make an application for review if he agreed to pay double the fine Vide Yaj II 306 and verses 294-295 above

496 Vide Yaj II 305 for a similar provision Verse 82 above sets out various grades of tribunals

498 Interest is either krta (agreed upon between the debtor and creditor) and akrta (not agreed) The first is of six kinds कायिका कालिका, चक्रवृद्धि कारिता शिखावृद्धि and भोगलाभ Vide Dr p 331 vv 5 11 Yaj II 37 laid down that interest was to be 1/80th of the principal per month or 2, 3 4 or 5 percent per month according to the order of castes If more was promised by the debtor himself than this he had to pay it Vide Yaj II 38 Manu VIII 153 mentions the first four out of the above six and so does Nar (p 66 vv 102-104) Gautama XII 31-32 mentions six kinds (five being the same as above and the 6th being called अधिभोग) that refers to both bhogalabha and adhibhoga.

499 Where the debtor has to pay interest to the very end and where he pays it every time (i e every day) that is declared to be śikhavṛddhi (hair interest)

500 That is declared to be bhogalābha (interest by enjoyment) when (the lender) derives pleasure from (a mortgaged) house (by residing in it) or the crop from (a mortgaged field)

501 Where the complete enjoyment of the thing pledged (or mortgaged) is agreed to be the interest, that transaction of money-lending so entered into is said to be *adhibhoga*

(Interest in transactions where there is no agreement as to interest)

502–504 When a person takes a loan (of money or an article) and goes to another country without returning it that loan begins to acquire interest after a year (from the date of the loan) If a person after taking a loan (from a person) goes to another country without returning it even when pressed (by the lender to return it) that loan begins to acquire interest after three months (from demand) Where a borrower does not return (a loan) even though he be in the country and even when he is pressed (to return the loan), (the king) should make him pay interest from that day (i e the day of demand) though it was not agreed upon and though he be unwilling to pay interest

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499 We must read च भैत The verse as it stands makes no sense Haradatta on Gautama XII 32 and Saras p 293 add one verse from Kat which was omitted through oversight शिखेव वर्धते नित्यं शिरश्छेदान्निवर्तते । मूले दत्ते तथैषा स्याच्छिखावृद्धिरतः स्मृता ॥ (it constantly grows like the top knot on the head it ceases by the head being cut off i e by the principal being paid therefore this is called hair interest Vide Br p 371 vv 7 8

500 This explains adhibhoga in Gautama XII 32

502 504 Verse 502 applies where the lender makes no request for return, 503 where he makes a request for the return of the loan 504 where a man is in the country and does not return the loan though pressed Compare with 502 Vi VI 4 Verse 504 is referred to in *the Śivalanajapa v Shivlasa* m 31 Bom 304 at pp 361 362 Pāṇini (IV 4 21) derives yācitaka

505 What is lent through friendship (or affection) does not bear interest as long as it is not demanded back If it be not returned even though it is demanded back, it bears interest at (the rate of) five per cent (per month)

506 A deposit balance of interest purchase and sale, these, if not paid when demand is made therefor, bear interest at five percent (per month)

507 When a man after purchasing some goods, goes to a different country without paying the price, the price begins to earn interest after three seasons (i e 6 months)

508 There is no interest at any time on hides (or armour) crops, wine gambling debts the price of commodities sold the bride price of women and debts incurred as surety

(*The rate of interest*)

509 Money lent at interest may always be recovered by the creditor up to double (of what was lent) If he cannot recover double (of what was lent) he should again add further interest

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505 Compare Nār p 68 v 108 31 Bom 354 at p 361 refers to this verse and it is said (at p 364) that it was an incident annexed to every contract of debt by the Hindu Law that interest though not stipulated for should run on it in the event of non payment after demand from the date of such demand Neither the Interest Act XXXII of 1839 nor the Contract Act affects that rule of Hindu Law

506 Purchase and sale —if a chattel is purchased and the purchase money is not paid even though demanded this verse applies and the interest runs from the date of demand

507 The Vir explains that this applies where there is no demand made for the money

508 There can be no interest in these cases unless it is expressly stipulated for As to prices of commodities there is no interest only when the purchaser does not leave the country and there is no demand In the case of a deposit also there is no interest as long as it is kept intact and is not demanded back Compare Nār p 33 v 36

510–512 The interest stands at double in the case of jewels, pearls, corals, gold and silver, fruits, silken cloth, woolens In the case of all oils, liquors and ghee, the (maximum recoverable with) interest should be known as eight-fold and also in the case of raw sugar and salt. (The maximum recoverable with interest) is fivefold in the case of all metals other than gold and silver and eight-fold in the case of land As the text says 'at once' it (the maximum) should be paid at once

(Recovery of debts–the rule when there are several debts)

513 Where several debts are executed in writing on the same day (the king) should treat them all as equal, so far as the security, its protection and enjoyment are concerned, in other cases (i e where the debts are not of the same day) they should be paid in order (of dates)

510–512 Verse 510 says that the rule of *damdupat* applies in these cases Read 'phala' for 'phāla in 510 The sages are not agreed as to the rate of interest on various articles and so Nārada observes that there are several local usages (Nār p. 67 v 105). Compare Gautama XII 26 and 33, Manu VIII 151, Vas II 44-47, Yāj II 39, Vi VI 11–17 for varying rates All are agreed as to gold or money that the interest recoverable at one time in a lump cannot exceed the principal, which is called the rule of *damdupat* There are numerous cases explaining the limit of the rule of *damdupat* Vide I L R 1 Bom 73 (damdupat not applicable to interest recoverable in execution of a decree) I L.R 3 Bom 131 (rule applies only to Hindu debtors), I L.R 20 Bom 721 F B (rule of damdupat does not apply to mortgages with possession where the terms agreed upon necessitate the existence of an account current) I Bom L R, 551 (p 555 summarises three propositions), 35 Bom 199 (the Transfer of Property Act does not take away the protection of the rule of damdupat), 31 Bom. L.R 419 (this rule does not prevent an agreement between creditor and debtor to capitalise interest at a stage when the interest does not exceed the principal) Under the Deccan Agriculturists Relief Act (XVII of 1879) the benefit of the rule of *damdupat* is given even to non-Hindu debtors who are agriculturists.

513 If all debts borrowed on same date can be recovered from the debtor, they should be treated equally, but if all cannot be fully recovered, then each should be recovered from the property of the debtor *pro rata*.

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506 A deposit balance of interest, purchase and sale, these, if not paid when demand is made therefor, bear interest at five percent (per month).

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517 If (a debtor) were to pledge the same thing to two persons what would be the proper beginning or course of conduct (as to recovery of the debts) ? (The answer is) the prior one of the two (transactions of pledge) should be accepted (as enforceable) and the person who made the two pledges would be liable to the fine imposed on a thief

518 When a mortgage sale and gift are made by means of a document and by means of witnesses, the transaction effected by a document would be superior, being opposed to only one mode of proof (viz oral evidence)

519 When there are two writings about the same transaction one not specifying the thing and the other specifying the thing, Kātyayana declared that the transaction in writing which gives particulars (of the thing pledged &c) is superior (to the other)

520 That would be *anirdista* (not specified or ascertained) where a man pledges a thing which did not at first (i e

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517 Vide Yaj II 23 for the proposition that in pledges, gifts and sales the prior transaction is preferred to a later one Compare Vi V 181 182 (which prescribe drastic punishments for such mortgages of land) and Br p 326 v 34

518 This verse applies to a simple pledge or mortgage (gopyādhi) where there is no enjoyment In such cases the transaction which is effected by writing is superior to one effected in the presence of witnesses only But if a transaction be effected before witnesses and is accompanied with possession then there being two modes of proof in its favour (oral evidence and possession) that transaction would be superior to one effected by writing but without possession Vide Vi V 184 Compare sec 48 of the Indian Registration Act which confers priority on registered documents against oral agreements unless the latter are accompanied or followed by delivery of possession Verses 517-518 show that hypothecation without delivery of possession was known to Kāt

519 This applies where there are two documents of pledge or other transaction concerning the same thing The next verse explains what is meant by nirdista and anirdista.

520 We have to take 'yo vidyamānam as equal to 'yah, avidyamānam 'resembled the sky -this means that it was vague or intangi

514 But when there are several debts, whatever is incurred first should be paid first, but a debt owed to a king (or kṣatriya) should be paid after one owed to a brāhmana

515 Where a creditor establishes that a particular article was manufactured (by the debtor) with the money (or materials) of the particular creditor, the debtor should give that money (recovered by sale of the article) to that creditor alone and not otherwise

(*Pledge*)

516 That is said to be *bhogyadhi* (a pledge to be enjoyed) if (a debtor) having taken a loan, gives (to the creditor) something whether moveable or immoveable, which is capable of being enjoyed, for the purpose of meeting the interest (The debtor) after repaying the principal in addition (to the income enjoyed by the creditor) would get back his field and the like (that was hypothecated)

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514 Compare Yāj II 41 The general rule is that as regards debts the first in time prevails over the rest But exceptions were recognised on the ground of the caste of the creditor Vide Sec 48 of the Transfer of Property Act and sec. 56 of Bombay Land Revenue Code (which makes state revenue a paramount charge

515. This states an exception to the rule that among several debts the earlier in time prevails over later ones

516 Nār (p 73 vv 124-125) divides a pledge into two, viz, one that must be redeemed within a certain time (kṛtakalopaneya) and the other which is to be retained till discharge of debt and again divides a pledge into two varieties *gopya* (to be retained only) and *bhogya* (to be enjoyed) Br (p 322 v 17) also divides a pledge into moveable or immoveable, gopya or bhogya. The Saras (p 233) notes texts of Vyāsa and Bhāradvāja and says that a *bhogyādhi* is of two kinds *sapratyayabhogyādhi* (where the stipulation is that the profit from the thing pledged is to be applied towards payment of interest and reduction of the principal) and *apratyabhogyādhi* (i e where the stipulation is that the income is to be taken in lieu of interest only) Verse 516 speaks of sapratyayabhogyādhi Vide Mit. on Yāj II 64 for the same distinction between two varieties of bhogya [illegible] the technical terms are not used

525 (The creditor or pledgee) who would make the pledge work unwillingly and without the consent (of the pledgor) should be made to pay the (price of the) fruits of labour (to the pledgor) or he would not get his interest

526 He (the pledgee) who harasses and rebukes the pledge while working (for him) with words punishment or movements, would have to undergo the first amercement

527 Where (the pledgee) forcibly and against the will of the pledgor adds to the pledge what is not pledged, he (the pledgee) would be liable to the first amercement and the pledgor would get back his pledge.

528 When a creditor enjoys a pledge from his debtor under a vitiated doument there the king should make (the creditor) pay a fine and should destroy the deed of pledge

529 Where the pledgor does not exist (i e is dead or unheard of) the creditor should proclaim the pledge (to the king) Then the pledge being proclaimed to the king should be sold by him this is the fixed rule The creditor after receiving his money together with interest should hand over the rest (of the proceeds of sale) to the king

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525 This refers to female slaves pledged. Compare Manu VIII 144 and 150 Kaut (tr p. 227 text p 179 अनिच्छोपभोक्ता मूल्यनाशं साजीवं बन्धं च दद्यात्) Yāj II 59

526 This suggests that when the slave refused to work the pledgee would not be liable to fine if he rebuked the slave pledged

527 The Saras explains that this verse applies to *gopyādhi*

529 The Par M Saras and Vir explain that this verse applies where the debtor leaves no relatives If there are relatives it is proper that they should get the balance of the sale proceeds Compare Br p 325 vv 29-30 Vide sec 176 of the Indian Contract Act.

at the time of the pledge) exist and the exact description of which could not (therefore) be specified and which (hence) resembled the sky That should be indicated as *nirdista* (specified in detail) which exists at the time (of the pledge &c) as (exclusively) his (of the pledgor &c)

521 Where a person having first declared (pledge) of all his property afterwards effects a pledge by specifically naming (the thing pledged) how cannot the transaction marked (by specifying the name) be more powerful (than the one which is effected in general terms) ?

522 When the field or house is marked out by boundaries and the village and other (details) are written (in the document of pledge), then it becomes perfect (or valid)

523 If any thing that is pledged is destroyed through the power of fate or the king, in such a case the debtor should be made to pay to the creditor the debt together with the interest

524 (If the thing pledged) were to fall (i.e deteriorate) or were to be destroyed without any fault of the creditor (the pledgee) the debtor should be made to give another thing (of equal value) as a pledge and he could not be free from the debt

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able like the sky not being in existence at the time of the pledge or sale and not being described as to its details What is in existence at the time of pledge and its nature can be specified is nirdista. Compare sections 79 82 of the Indian Contract Act as to contract for the sale of goods that are not ascertained at the time of the contract

521 This applies to a case where though the thing exists at the time of both transactions the first is a general pledge of all that belongs to a man and the second is that of a specific thing

522 It is better to read गृह for ग्राम with the सरस्वतीविलास. Compare sections 21 and 22 of the Indian Registration Act

523 Power of fate ' such as fire flood &c ' power of king ' where the king or his officers forcibly seize the thing pledged without any fault of the pledgee Vide Yaj II 59 Br p 123 v 21 and Gautama XII 39 for similar propositions. Compare sec 153 of the Indian Contract Act

524 Nipatated would also mean were to be lost ' and mriyeta would mean 'were to die (with reference to cattle or other animals that were pledged) Compare Yaj II 60

525 (The creditor or pledgee) who would make the pledge work unwillingly and without the consent (of the pledgor) should be made to pay the (price of the) fruits of labour (to the pledgor) or he would not get his interest

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529 The Par M Saras and Vir explain that this verse applies where the debtor leaves no relatives If there are relatives it is proper that they should get the balance of the sale proceeds Compare Br p. 325 vv 29-30 Vide sec. 176 of the Indian Contract Act.

(*Rules about sureties*)

530 One should cause a surety to be given for repayment (of debt) for appearance, in litigation, for honesty, for (taking) oaths In this way in other cases (surety should be given) according to circumstances

531 If the surety for the appearance (of a person) cannot produce him at the time and place (agreed upon), he should in that case pay the debt due to the creditor (lit what he has bound himself) except where (the debtor is prevented from appearing) by act of God or the king

532 Three fortnights at the most should be allowed for finding out the absconding (person -debtor), if he (the surety) can produce him (in that time) the surety would be free (from liability)

533 When the time (given for producing the absconding person) has expired if the surety cannot produce the

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530 Suretyship was known from ancient times Pāṇini (II 3 39) knew it and Gautama (XII 38) speaks of *pratibhāvya* (suretyship debt) Manu (8 160) speaks of surety for appearance and for repayment of debt Nar p 70 v 118 speaks of three kinds of sureties Yāj (II 53) speaks of three kinds of sureties, viz for appearance honesty and repayment (the same verse is Viṣṇu VI 41) and in II 10 refers to a fourth kind viz surety in litigation (i e one who will carry out the decretal order passed against a party) When oaths or ordeals were to be undergone at a distant date surety was taken from the party Bṛ (p 327 vs 39 40) speaks of four (*dars*ana *pratyaya* dāna and *rnadravyarpana*) The distinction between the last two is that the *dānapratibhū* undertakes to repay the debt with interest from his own pocket while the last undertakes to make available to the creditor the property (bo se furniture &c) of the debtor Hārita speaks of five the fifth being surety for keeping the peace (*abhaya*) The Sm C explains that the surety in case of a gopyādhi was called adhipāla and in case of bhogyādhi was called bhunjāpaka and that both were included herein

532 Vide Bṛ p 32 v 42 who says that in accordance with the distance of the country (where the debtor is supposed to be in hiding) a fortnight a month or a month and half should be given Kāt mentions only the maximum period that should be allowed

person, he (the surety) should be made to pay what is due (from the debtor) and the same rule is laid down in case of the death (of the debtor)

534. Where a person becomes a surety for the appearance of a man after receiving a pledge from him, the son of *the surety should be made to pay the money from that pledge* in the absence of the father (i e in case of his death or his having gone abroad)

535 When a man stands surety for the appearance of another he should pay from his own wealth the debt to the creditor, if he does not produce the debtor (at the proper time and place)

536 The first two (viz surety for appearance and honesty) should be made to pay the money that may be declared to be due at the time (when the debtor should have paid) in case of failure (in appearance or honesty on the part of the debtor) but the latter two and in their absence their sons also (are

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534 The Mit on Yāj II 54 explains that this applies to the surety for honesty also In *Narayan v Venkatacharya* 5 Bom L R 434 it is said that under the Mit a grandson is not bound to pay the suretyship debt of his grandfather unless the latter received some consideration for it In I L.R.10 Patna p 91 it was held that if the father stood surety for honesty the son was not bound to pay that debt Vide also 4 Pat L J. 309

535 This is Manu VIII 159

536 This is the same as Br p 327 v 41 This verse obviously refers to the four kinds of sureties mentioned by Bṛhaspati Vide note on 530 The latter two —mean the surety for dāna (repayment of debt) and for pratyayarpaṇa (delivery of the goods of the debtor to the creditor) The son of the surety for appearance and honesty is not liable to pay his father s suretyship debt, but the sons of the other two kinds of sureties are liable to pay (but not the grandson) In *Tukarambhat v Gangaram* I. L. R 23 Bom 454 at p 459 the texts of Yāj., Br and Kāt are examined and it is held that ancestral property in the hands of sons is liable for the suretyship debts of the father when the father was a surety for payment of money or for delivery of goods vide I L.R 23 Mad 377 (suretyship debt of father for payment held binding on ancestral property in the hands of sons but not where he was surety for keeping the peace) 39 Cal 843

liable to pay) if the debtor fails in his promise

537 When (several sureties) have incurred joint and several liability the son should pay the whole debt if the father has gone abroad, but if the father be dead, then the son need pay only the share for which his father would have been liable and not the debt claimable from others (the co sureties). This is what Bṛhaspati says

538 Whoever out of several (sureties) that have incurred joint and several liability is found present at the place (of the agreement) should be made to pay (the whole debt), if (a surety) be gone abroad, then his son should be made to pay the whole, but if (a surety) be dead, then the son should be made to pay only the share of his father

539 If one who having stood surety gives back the debt as a surety being harassed (by the creditor) he is en

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(where it was held that suretyship debt of the dāna type must be paid by son though no actual loan had been advanced to the principal) 26 All 611 Vide notes on vv 555 556 and 561

537 Yāj II 55 says that if there are several sureties they should pay the creditor according to their shares But if their liability is joint and several, then the creditor may proceed at his will against any one for the whole Vide Nār p 71 v 120 This verse says that when there is joint and several liability the son of a surety who has gone abroad may have to pay the whole debt if the creditor demands it from him but if the father be dead then the son has to pay what would fall to his father's share (if the debt were distributed among all the sureties) Ekacchāyāśrita is a technical expression and is explained by the Mit as ekasya adhamarṇasya chāyā sādṛśyam tām āśritaḥ i e those who agree to hold the same position as the principal debtor (who has to pay the whole debt if demanded) The Mit and Sm. C. say that when the son pays the whole debt due from his deceased father as surety he need not pay interest while the Vir holds the opposite view

538 The Vir notices that Kāt as read by Sm C was what is verse 537 This verse is practically the same as 537 and the two are probably two versions of the same verse of Kāt

539 Vide Bṛ p 323 v 44 for the same verse This applies only if the surety pays under pressure from the creditor If he pays out of greed for demanding double of what he has to pay he would not be entitled to double nor would he be entitled to double if the original debtor compensates

titled to receive (from the original debtor) twice the amount (paid to the creditor) after the lapse of three fortnights

540 Whatever is rightly paid for another person by one (the surety) to whom a demand is addressed (by the creditor) and (whose liability) is proved by witnesses, the surety is entitled to get that (from the original debtor)

541 When there is a failure (to perform a contract) even though an earnest had been given by one party, then (the king) should make the other party (who is in default) pay double (of earnest) The purpose of taking an earnest is to make the party suffer the loss of it when he does not abide (by his agreement)

(Who should pay the debt contracted by the father and others ?)

542–543 A debt incurred by (the head of the family) when unable to maintain the family or when suffering from a disease and for the purpose of (meeting) a calamity, which (debt) is known as ' āpatkrta (incurred in distress), debt incurred for (expenses) of a daughter's marriage and what is incurred

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the surety within three fortnights Vide Yāj II 56 and Nār p 71 v 121 both of whom do not expressly impose the condition of the lapse of three fortnights Compare sec 145 of the Indian Contract Act

541 This verse is rather obscure Pāṇini (VI 3 70 Kāre satyāga dasya) notices the word satyaṁkāra which is explained by the commentators as śapathakaraṇam Yāj (II 61) has the half verse Satyaṁkāra kṛtaṁ dravyaṁ dviguṇaṁ prat pādayet which is explained in two ways by the Mit One meaning is that if one mortgages or pledges with the express stipulation that when the principal rises to double he would pay double the money but would not lose the property mortgaged or pledged then the creditor is only entitled to double the principal, but not to the property Another meaning is that when A gives some article such as a ring to B by way of earnest in a contract of sale &c (here satyaṁkāra means a thing or money given by way of earnest) If the contract goes off through the default of A who gives the earnest, he loses the earnest but if the contract goes off through the default of B to whom the earnest is given the defaulter has to pay double the earnest or double the price thereof

542–543 Manu VIII 166 and Yāj II 45 restrict the liability of the family to debts incurred for the purposes of the family Compare Viṣṇu VI, 34 Nār p. 45 v 13.

for (meeting) funeral expenses-all these debts incurred by the head of the family must be paid by the family

544 That the father need not pay the debt incurred by the son is the rule of law, but (the father) must pay that debt (of his son) which he promised (to pay) or which was (incurred by the son) with his consent

545 A debt incurred for the (purposes of the) family by the slaves, the wife, the mother, the pupil or the son (of the head of the family) even without his consent when he is gone abroad should be paid (by the head of the family) This is (the view of) Bhrgu.

546 A woman should pay a debt incurred by her along with her husband or son or incurred by herself alone, but need not pay debts incurred by them otherwise.

547 A wife who was addressed by her husband when about to die 'you should pay my debts' should be made to pay even though she does not accept (or consent to the direction) if she has wealth in her possession

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544 Here as the Sm. C says the words 'putra and 'pitā' stand for any member of the family and for head or manager of the family' (father grand father eldest brother uncle &c) The debt referred to in this verse is one not incurred for the purposes of the family, but is an individual debt and dharmatah implies that the father may through affection pay his son a individual debt but is not bound to do so

545 Compare Manu 8 166 Yāj II 45 Nār p 45 v 12 and Br p 329 v 50 This verse is quoted in *Virasvami* v *Appasvami* 1 Mad H C. R p 375 379 n (when a husband married a second wife and the first wife left him, it was held that the first wife had no implied authority to borrow money for her support)

546 Compare Nār p 46 v 15 Sm C explains that if she has not joined them in debt she need not pay even on their death Compare Yāj II 46 and 49 In *Narotam* v *Nanka* I. L. R 6 Bom 473 it was held that a married woman who contracted a debt jointly with her husband was liable to the extent of her *stridhana* only and not personally Vide I L R 1 Bom. 121 124 where this verse is cited The Mit on Yāj II 49 says that the purpose of the last clause is to indicate that a woman need not pay a debt incurred by her husband for liquor or in gambling even if she joins with him in incurring it or accepts liability for it

548. A debt incurred by the father, if he is afflicted with disease or has gone abroad, shall be paid by the sons after the twentieth year, even when the father is living

549 (The king) should make the sons pay such debts (of their fathers) even though they be living, if they are afflicted with disease, are mad or old or have gone on a long journey.

550. Sons must pay the debt of their father when it is proved (by evidence) even when the father is near (or living), if the father is blind from birth, a *patita* (guilty of grave sins), mad or suffering from tuberculosis, leprosy (and other incurable diseases)

551. Since fathers are released from wretched indebtedness by sons when born on account of the latter's paying off (the debt), therefore fathers desire (to have) sons

552 (A son need) never pay (the debt of his father) when the father is dead, if he (the son) has not attained

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548 The Sm C explains that the son had to pay his father's debt when twenty years elapsed after his going abroad Compare Visnu VI 27 and Nār p 46 v 14. Vide I. L R 41 Mad 136 at p 149 and I. L. R 42 Mad 711 (F B) at p 730 where this verse of Kat. is referred to Visnu makes it clear that the son had to pay his father's debt when the latter became a *sannyasin*

549 According to the V R, p 51, v 549 is an exception to v 548. It says that if the father's disease be incurable or if it is certain that the father would not return from his journey then the son was not to be allowed to wait twenty years, but was bound to pay at once

551 Compare Nar p 42 v 5 Vide verse 591 below for the result of non payment of debt It is therefore that debt is said in this verse to be ' adhama' (that is, what reduces a man to a low state) ' When born '—it is not meant that a son the moment he is born is called upon to pay off his father's debt, that liability is incurred by him only when he has reached the age of discretion Even the Taittiriya Samhita (III 3 8 1-2) refers to ' kusidam-apratittam (debt unpaid) and expresses an ardent desire to be free from it.

552 A person was a minor till the age of 16, vide Nār p 51 v, 35 and Kautilya (text p 154 and tr p 196) ' women when twelve

years of discretion But when the proper time (to pay the debt) comes he must pay according to the law otherwise his forefathers may remain in hell

553 If (a son) has not reached (years of) discretion he, though independent is not liable for the debt (of the father) (Real) independence is understood to belong to one who is senior and seniority is due to the (attainment of) certain qualities and age

554 That debt of the grand father which is seen (or ascertained) to be due or a part of which remains to be paid must be paid (by the grandson) but a debt which is tainted or which was repudiated by the father need never be paid (by the son &c)

555 That debt which descended hereditarily from the grandfather which was ascertained by the father (i e the son of the grandfather) as due, which is free from taint and which was not repaid by the sons (of the grandfather) should be paid by the grandsons (This is the view of) Bhrgu

556 When the debt of the grandfather is not repaid by his sons because they were afflicted with disease such a debt of the grandfather should be paid by the grandson, but only the principal (should be paid)

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years old attain majority and men when sixteen (द्वादशवर्षा स्त्री प्राप्तव्यवहारा भवति षोडशवर्ष पुमान्).

553 Independent because of the death of the father This is the same as Nār p 50 v 31

554 Tainted a debt is tainted when it is was incurred for liquor lust, gambling when it is a fine or a toll &c Vide Gautama XII 38, Manu VIII 159 Vas 16 31 Kaut p 189 Yāj II 47 and Mit thereon for an enumeration of debts declared to be so tainted that the son need not pay them

556 Such a debt means a debt not tainted as laid down in the texts cited in the note to v 554 Vide notes on 560-561 Compare Br p 328, v 49

557 (The king) should make the son pay (the debt of his father) if he (the son) be free from diseases capable of taking the estate (of his father) and is able to shoulder the debt but (he) should not make the son pay otherwise

558 What is owed by the father must always be paid to the creditor in his absence by the sons or grandsons from his property

559 While the father's debt remains (unpaid) the son shall not take the wealth (of the father) that wealth should be made over to the creditor when (the father) is dead and the son takes the wealth (without paying the debt) he should be made to pay (by the king)

560 In the absence (i e death) of the son the grand son should sedulously pay the debt, the fourth (in descent) should not pay (the debt of the ancestor) it (the liability to pay the debt of the ancestor) ceases in his case

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557 Capable of taking i e not liable to be excluded from in heritance for causes mentioned in Manu IX 201 and Yāj. II. 140 able to shoulder —of age and able to pay back the debt

558 ' In his absence —on his death &c

560 Compare Nar p 43 v 4 Dr Jolly has a long note on this passage and on p 44 he makes this remark The doctrine viz that the liability to pay debts contracted by an ancestor extends to the great grand son is opposed to the teaching of such an eminent autho rity as Vijnanesvara, who maintains in the Mitaksara that the great grand son is not liable for debts contracted by his great-grand father and conversely that he does not inherit his property He makes similar remarks in his Tagore Law Lectures (on Partition &c 1885) p 171 but in the law of debt also the liability to pay debts contract- ed by an ancestor stops with the grandson There is every reason to suppose that in the law of inheritance also, the exclusion of the great grandson from the narrower community of heirs by Vijñanesvara and Visvesvara is intentional and not accidental The learned author has here fallen into a double error The Mit has nowhere said that the *great grandson* is excluded from inheritance The Smrti texts on the payment of debts by descendants present an apparent conflict For example vv 556 and 558 (as also Yāj II

50) make no distinction between sons and grandsons as to liability but v 556 and Br p 328 v 49 say that the son must pay the debt with interst, while the grandson need pay only the principal The first canon of interpretation is that a conflict between texts is to be avoided and they are to be construed as one coherent whole (this is called the ekavakyatanyaya, vide Jaimini II 1) This can be accomplished by assigning to each text its appropriate sphere (i e by following the principle of visaya-vyavastha) Therefore an exami nation of the several texts and the propositions deducible therefrom must be undertaken here The first proposition is that the debt of a man must be paid by his three descendants (son grandson and great-grandson) if they have ancestral estate in their hands This follows from the rule of Yaj II 51 that whoever takes the *riktha* (ancestral estate) has to pay the debt and from the verses of Kātya yana (855 856) that three descendants of a man form a coparcenery The Mit. on Yaj II 51 distinctly says that the great grandson and the like of him who is without son or grandson should be made to pay the debt if they take the *riktha* (ancestral estate) but not otherwise' (पुत्रहीनस्य रिक्थिन इत्यतद्पि पुत्रपौत्रहीनस्य प्रपौत्र त्ये रिक्थग्राहि तद्दा ऋणं दाप्या नान्यथेत्येवमर्थम् ॥ मिता) Dr Jolly somehow failed to notice this remark in the Mit and made the wrong assertion quoted above This proposi tion is followed by modern decisions in British India Vide 19 All 26 (P B) and 4 Patna 478 where grandson taking assets was held liable to pay grandfather s debt with interest while 53 I A p 204= 48 All 518 (P C) which is the latest case on the point decides that the great-grandson (who has taken assets) is liable to pay the debt of the great-grandfather with interest just as a son is liable This rule is embodied in vv 555 558 But if sons and other descendants took no ancestral estate it was felt even in ancient India that it was a great hardship that all three descendants should be made to pay the debt of the ancestor with interest Therefore the second proposi tion that was enunciated by ancient and medieval Hindu lawyers was that even when no ancestral assets were taken the son should pay his father s debt with interest, the grandson should pay his grandfather s debt but without interest and the great grand-son was not liable to pay even the principal This proposition is embodied in Br (p 328 v 49) and in Kāt. v 556 The Mit. on Yaj II 50 quotes the verse of Br and remarks अत्र न पुत्रपौत्रैः ऋणं देयमित्यविशेषेणाक्तं तथापि पुत्रेण यथा पिता सवृद्धिकं ददाति तथैव ऋणं देयं । पौत्रेण तु सम मूलमेव दातव्यं न वृद्धिरिति विशेषोवगन्तव्यः । ऋणमात्मीय ... मस्य तद्वाक्यस्य स्थिति बृहस्पति

वचनात् । तत्सुतस्य प्रपौत्रस्याग्रहीतधनस्य । Dr Jolly probably relies on this passage of the Mit but he failed to grasp the implication of the word 'agrhItadhanasya (if he has not taken ancestral wealth). In *Narasimharao v Krishnarao* 2 Bom H C R p 64 it was held (probably following Brhaspati p 328 v 49) that the grandson was liable to pay the debt of his grandfather without interest independently of assets In order to remove the great hardship on heirs (taking no ancestral estate) caused by this decision Bombay Act VII of 1866 (the Hindu Heirs Relief Act) was passed whereby it is provided that a son or grandson is not liable to be sued for the debts of his deceased ancestor merely by reason of the being such son or grandson and that the son or grandson or other heir of the deceased shall be liable only to the extent of the assets that come to his hands Judicial decisions have laid down that the same is the law in other parts of British India In I L R 19 All p 26 at p 29 both verses of Kat about the grandson's liability (to pay with interest and also without interest) are referred to and in I L R 4 Patna 478 at p 482 the judges express their inability to understand what Brhaspati meant when he declared that the grandson should pay grandfather's debt without interest and follow Yaj and Visnu and refuse to follow Brhaspati The Vīramitrodaya (p 34) very tersely but clearly puts forward the two propositions 'पुत्रेण रिक्थग्रहणे ऽग्रहणे वा सवृद्धिकमेव देयम् । पुत्राभावे पौत्रेण रिक्थग्रहणे ऽन्यथ देयम् । अग्रहणे मूलमेव । प्रपौत्रेण तु रिक्थाग्रहणे मूलमपि न देयम् ॥ A third proposition (which is an exception to the first two) is that even a son is not liable to pay the debts of his father incurred for liquor gambling or arising from lust, suretyship or a fine or toll or a promise made without consideration or whatever debt is not vyavahārika' (vide Gaut XII 38, Manu VIII 159, Vas XVI 31 Kaut p 189 and Usanas as quoted in Mit on Yaj II 47) Other writers restricted the non liability of the son for suretyship debts to cases where the father stood surety for appearance or honesty Vide notes on vv 530 and 534 above In *Brij Narain Rai v Mangla Prasad* L R 51 I A 129 (= 46 All 95) the Privy Council laid down five propositions as to the liability for debts contracted by managers and fathers of joint Hindu families viz (1) The manager of joint undivided estate cannot alienate or burden it except for purposes of necessity (2) if the manager be the father and the other members be his sons he may, so long as it is not for an immoral purpose lay the estate open to be taken in execution upon a decree

50) make no distinction between sons and grandsons as to liability, but v 556 and Br p 328 v 49 say that the son must pay the debt with interest, while the grandson need pay only the principal. The first canon of interpretation is that a conflict between texts is to be avoided and they are to be construed as one coherent whole (this is called the 'ekavākyatānyaya vide Jaimini II 1) This can be accomplished by assigning to each text it appropriate sphere (i e by following the principle of visaya-vyavasthā) Therefore an examination of the several texts and the propositions deducible therefrom must be undertaken here The first proposition is that the debt of a man must be paid by his three descendants (son, grandson and great-grandson) if they have ancestral estate in their hands This follows from the rule of Yāj II 51 that whoever takes the *riktha* (ancestral estate) has to pay the debt and from the verses of Kātyayana (555–556) that three descendants of a man form a coparcenery The Mit. on Yāj II 51 distinctly says that the great-grandson and the like of him who is without son or grandson should be made to pay the debt if they take the *riktha* (ancestral estate) but not otherwise' (पुत्रहानस्य रिक्थिन स्वधनदपि पुत्रपौत्रहीनस्य प्रपौत्रादयो यदि रिक्थ गृह्णन्ति तदा ऋण दाप्या नान्यथेत्येतमभ्यम् ॥ मिता) Dr Jolly somehow failed to notice this remark in the Mit. and made the wrong assertion quoted above This proposition is followed by modern decisions in British India Vide. 19 All. 26 (F B) and 4 Patna 478 where grandson taking assets was held liable to pay grandfather's debt with interest while 53 I A p 204= 48 All 518 (P C.) which is the latest case on the point decides that the great-grandson (who has taken assets) is liable to pay the debt of the great-grandfather with interest just as a son is liable This rule is embodied in vv 555, 558 But if sons and other descendants took no ancestral estate, it was felt even in ancient India that it was a great hardship that all three descendants should be made to pay the debt of the ancestor with interest. Therefore the second proposition that was enunciated by ancient and mediaeval Hindu lawyers was that even when no ancestral assets were taken the son should pay his father's debt with interest, the grandson should pay his grandfather's debt but without interest and the great grand-son was not liable to pay even the principal This proposition is embodied in Br (p 328 v 49) and in Kat. v 556 The Mit. on Yāj II 50 quotes the verse of Br and remarks अत्र च पुत्रपौत्रैऋण देयमित्यविशेषेणोक्ते तथापि पुत्रेण यथा पिता सवृद्धिक ददाति तथैव ऋण देयम् । पौत्रेण तु सम मूलमेव दातव्यं न वृद्धिरिति विशेषोऽवगन्तव्य । ऋणमात्मीय मदय तत्पुत्रस्य त्रिभि वृद्धयानि

561. The debt (of the grandfather) arising from suretyship need never be paid by the grandson, even the son

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for the payment of his personal debt; (3) if the father purports to burden the estate by a mortgage, it would not bind the estate unless it is made for discharging *an antecedent debt*, (4) 'antecedent' means 'antecedent in fact as well as in time' i. e it must be truly independent of and not part of the transaction impeached by the son, (5) this result is not affected by the question whether the father is alive or dead It will be observed that the Privy Council makes (in propositions 2 and 3) a distinction between a pure money debt of the father and a debt of the father secured by a mortgage The ancient Hindu Law books afford no warrant for this distinction Further the Privy Council in *Suraj Bunsi Koer* v *Sheo Proshad* 6 I A 88 at p 106 (= I L R 5 Cal 148, 171) for the first time used the words 'antecedent debt' when saying that the whole ancestral estate including the son's interest would be liable 'where the conveyance was executed by the father in consideration of an antecedent debt or in order to raise money to pay off an antecedent debt Those words for which there is nothing corresponding in the ancient texts became the subject of elaborate arguments and decisions throughout India as if they were the dicta of the ancient sages themselves According to the Privy Council (vide proposition 5) the sons liability to pay his father's debts is as absolute during the fathers lifetime as after his death This goes far beyond the spirit of ancient Hindu Law which made the son liable after the fathers death or during his life only if he had gone abroad for many years or was afflicted with incurable disease or was extremely old (vide vv 548-550)

If verse 560 means the same thing as Nar p 42 v 4 and B p 328 v 49, then the meaning is that the great-grandson need not pay even the principal, if he has taken no ancestral estate Here if the father be A, the son B, the grandson C, and the great grandson D, then A, B, and C are the three persons liable for A's debts (though C is liable only for the principal if he has taken no estate) and the fourth D (counting from A, the first person liable) is not liable It is in this way that Kat vv 555, 558 on the one hand and 556 and 560 on the other are to be taken as referring to different sets of circumstances (viz, taking the ancestral estate in the first two and not taking it in the last two)

need pay only the principal (of the suretyship) debt of his father.

562 The debt must be paid by him who takes the estate, if there be none such, then by him who takes the wife, in the absence of such a person (taking the wife) by the sons and then by others in order (of heirship) who take the estate

563 As long as the son does not get his father's wealth when it exists, so long he though well-off, should not be made to pay as a debtor (the debt of his father)

562–563 Compare Gautama XII, 37, Yāj II 51, Nar p 48 v 23 and Br p 329 v 52 Vide verse 577 below, Vide my notes to V M pp 340–345 for detailed explanation of Yāj II 51 which is practically the same as this verse This verse settles the order of persons liable to pay the debts of a deceased person First comes he who takes his wealth (this may include a son or grandson or great grandson who takes the estate) If the deceased left no estate then he who took his widow had to pay the deb of the deceased This does not mean that widow remarriage was approved of by the sages Manu (V 162) rather condemns it, But remarriages took place by custom and sometimes a widow may be kept by a man as a mistress In such a case the second husband or lover was liable to pay the debts of the first husband That this was apprehended to be the law even in modern times is clear from the fact that section 4 of the Hindu Heirs Relief Act (Bombay Act VII of 1866) expressly provides no person who has married a Hindu widow shall merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow If there were no estate and also no widow the son was liable to pay the debts (even though he took no estate) A man might die leaving an estate and a son who was incompetent to inherit owing to some physical or mental defect In such a case a distant relative might take the estate (and not the son) and that relative would be liable to pay the debts (and not the disqualified son) Verse 563 makes it clear that even if a disqualified son has ample self acquired property he would not be liable to pay his father's debts if the father died leaving an estate which never came to the son but was taken by somebody else

564 What was promised whether in writing or without writing must be paid, but (what was promised) to the wife of another should be known as a debt due to lust.

565 Where (the father) after having caused through anger (physical) injury to another or having destroyed the latter's wealth, promises something that pacifies him (the person wronged), that is declared to be a debt incurred through (the influence of) anger

566. If a gift was promised by a man for a religious purpose whether when in good health or when afflicted with disease, the son should be made to pay it, if the father (the promisor) dies without (actually) giving it over ; there is no doubt on this

567 (The debt contracted by) liquor-sellers and the like, who have no wealth and no issue, shall be paid by him who enjoys their wives

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564 Yāj II 47 says that a son was not bound to pay the debt incurred for lust by the father Kāt. here explains what is meant by 'kāmakṛta (incurred for lust)

565 Among the debts which the son was not liable to pay Bṛhaspati (Br p 328 v 51) included promises made under the influence of love or wrath Kāt. here explains the latter

566 Read 'śrāvitam for bhāvitam Vide verse 642 also The only cases where an incomplete gift not actually made but remaining only in promise was enforced by the courts in ancient India are those in vv 566 and 642 This verse contains the germs of the idea of a will since the mere declaration of the intention of a man to give for religious purposes is here made enforceable after his death Aparārka p 782 says that the word son is only illustrative and every heir taking the estate of the promisor would be liable to make good the promise to make a religious gift In modern times a mere gift for *dharma* without specifying any particular object is declared to be void for uncertainty Vide 6 Bom 24 14 Bom 482 17 Bom 351, 18 Bom 136 23 Bom. 725 735 (P C = 26 I A 71) But this is opposed as pointed out in 30 Mad 34 to the spirit of ancient Hindu Law Vide Manu IV 227 for dharma meaning इष्ट and पूर्त gifts

567 Mandlik translates (tr of Mayūkha p 114) 'śauṇḍika' as 'drunkard but this is wrong, since it means 'one who distils or sells liquor or wine

568 The debts contracted by the wives of liquor distillers, hunters washermen, herdsmen, and sailors shall be paid by their husbands (lit protectors) since they are incurred by them for the purposes of their husbands

569–570 The debts contracted by wives shall in no way involve (bind) the husbands, except when they are contracted in distress (of the family) For the manifold activities of human beings are (made) for the sake of the family But the wives of washermen, hunters, herdsmen distillers of liquors (are exempt from this rule) The income of the husbands (in the case of these women) depends on them (their wives) and the family also is maintained by them

571 If a woman possessed of considerable (stridhana) wealth repairs to another man against the wishes of her son the son should take away from her the (stridhana) wealth in the absence of daughters (i e if there are no daughters).

572 One should bring into the world (i e produce) progeny for the purpose of (paying off) debts and not merely for the sake of (sensual) pleasure Therefore the parents should not be made to pay (the debts of their progeny) when contracted for an improper purpose

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568 The V R (p 50) reads nāpita (barber) for navika and ascribes the verse to Brhaspati (vide Br p 329 v 53) I ead rajaka for rjanaka Compare Yaj II 48 Nār p 47 v 1) and Vis n VI 37 V R and Vir explain that the verse is not restricted to women of these castes only but applies to women of all castes like oil pressers where the livelihood of the husband depends upon the labours of their wives. This verse is not meant to apply only to debts incurred by such women for purposes of the family but to all debts incurred by them

569–570 It is probable that these verses are not Katyayana's but Nārada's Verse 570 contains the same principle that is embodied in v 568 These are the same as Nār p 47 vv 18-19

572 Tantu means apatya (progeny)

573 If a woman who has a son forsakes her son, though quite able (to bear the burden of the family), then depriving her of her stridhana wealth the son should pay off his father's debt (with it). (This is the view of) Manu

574 If a woman possessed of considerable wealth has a minor son and she repairs to another husband, then the person to whom she resorts should pay the debt (of her husband) This is declared to be the rule about a woman having a minor son

575 (The debts) of those who have gone on a distant journey who are without relatives, who are idiots or mad, who are afflicted (with incurable diseases) and who wear peculiar sect marks (like the Bauddha ascetics) should be paid by those who have taken their wives and wealth, even when they (the former) are living

576 Where the son (of a man) is overwhelmed by calamities or where he is found to be a minor, then (the man's debt) should be paid by him who takes the wealth, in the absence of such a person, he who takes the wife (of the deceased debtor) should be made to pay the debt

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573 If the woman forsakes her son and repairs to another (blinded by love) the son should deprive her of her stridhana and should pay off his father's debt Though quite able —The same result follows if the son be not able (i e if he be a minor etc)

574 Compare Nār p 47 v 21. If we read trātāram for 'bhartāram as Sm C and Saras do then the meaning is if a woman having a minor son and much wealth resorts to another man as a protector (such as her brother or maternal uncle) then the latter should pay (i e make her pay) the debt of the husband

575. For lingi vide v 349 above

576 This applies where, though the son is capable of succeeding he is a minor or is suffering from diseases then in such a case the man who keeps his father's wealth with him (such as an uncle) should pay the debt of his father This verse only says that such a son is not under a liability to pay and does not lay down the order in which persons are liable to pay debts

577 The taker of (a man's) wealth shall first pay (his debts), after him the son (should be made to pay), when there is no son or when the son is extremely poor, the taker of the wife (shall pay the debt)

578 The husband should pay a debt contracted by his wife and the son should pay a debt contracted by his mother, if it is contracted for the sake of the husband (by the wife or the mother) when he (the husband or the son) goes abroad after telling her

579 (A father) must pay that debt contracted by his son which was approved of (after it was incurred) or which was not dissented from when it was incurred and when the father heard of it and which was incurred at the order (or pressure) of the father

(Discourse on the recovery of debts from the debtor by means of imprisonment and the like)

580 The debtor may be held in restraint (by the creditor) openly before an assembly of people according to the

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577 Vide v 562 above Compare Nār p 48 v 23 There is an apparent conflict between this verse and v 562 (and Yāj II 47) But there is really no conflict This verse applies to a particular case First the taker of assets should pay a man's debts if there are no assets then the son who is much more wealthy than the taker of the wife (of the deceased) should then pay the debt if the son is not wealthy and no assets are left then the taker of the wife should pay when there are no assets nor taker of the wife then even an indigent son should pay

578 It is better to read bhaktasyārthe for bharturarthe the meaning is that when a wife or mother is compelled to incur a debt for the bare maintenance of herself because the husband or son went to a distant country the husband or son was liable to pay it After telling her —the same result would follow if he went away without telling her where he was going If we read avidhāya it would mean without providing for her maintenance

579 Vide 544 above Compare Nār p 45 v 11

580 Vide vv 585-586 There are five modes of recovering a debt viz *dharma vyavahara chala acarita* and *bala* Vide notes on v 477 These five modes are mentioned by Manu VIII 49 Nār p 71 v 122 Visnu VI 18 Br p 329 v 54 Br (p. 330 vv 55 58) defines four of these (except vyavahara) Even Āpastamba (1 6, 19 1) refers to the mode of sitting at the door of the debtor (what is called '*dharna*') or the acarita of Manu Verse 477 refers to

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custom of the country so long as he does not pay what he owes.

581 Where the man held restrained has an inclination for making water or voiding fæces he should be followed behind (by the creditor) or he should be allowed (to go alone for that purpose) in fetters.

582 He (the debtor) if a surety be furnished should be released every day at the time of taking meals and at night, while the surety remains in custody

583 584 That debtor who cannot secure a surety for appearance or who will not accept (the proposal to be let off on furnishing) surety (though one is available) should be confined in jail or should be placed in the presence of guards A respectable man who is trustworthy and pure (in conduct) should not be confined in jail He should be let off without a surety or after being bound by an oath

585 The creditor should recover (the debt) from his debtor when he is first shown to be so by imprisoning him or by putting pressure on him (by fasting at his door) by making him work for him by judicial proceedings and by moral persuasion

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de ācāra (custom of the country) The Sm C explains that this verse exemplifies deśācāra and that the creditor may himself restrain the debtor (in one country) or employ a person for him (according to the custom of another country) V R says that this is an illustration of the 'vyavahāra mode of recovering a debt

581 The Sm C says that fetters are to be put on a very bad debtor only The V M reads nibandham vā and explains that he should be allowed to go on furnishing a surety for appearance

582 The last quarter may also mean as Sm. C and Vir say the surety having undertaken to prevent him from absconding

584 Anibaddhah may mean without fetters (vide v 581 above) or without guards (as the Sm C and Vir explain)

585 Pīḍana stands for bandhana or the mode of bala, uparodha for ācarita If we read vibhāvitam it would mean a debt that is shown to have been incurred Compare Manu VIII. 50, Yāj II 40 and Nār p. 72 v 123

586 In the same way (a creditor) may recover his money by a pretext or by 'ācarita' (the customary mode of sitting at the door or fasting &c) He should make kṣatriya, vaiśya and śudra debtors of the same caste as his own or of a lower caste (than his own) pay off (the debt) by working for him

587-588. (These are practically the same as 477-478)

589 Where a creditor harasses a debtor who claims investigation in a court he would lose his claim and would incur a fine equal (to the claim)

590 If (the creditor) were to make the debtor do for him dirty work which was not at first indicated (to the debtor when he was called upon to work) the creditor would have to undergo the first amercement and the debtor would be released from the debt

591 He who having taken a debt or the like does not pay it back to the creditor (or owner) is born in the (latter's) house as a slave or a servant (for wages) a wife or a beast

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586 Vide v 480 for a similar verse Compare Manu VIII 177, Yaj II 43 and Br p. 330 v 59 who further provide that a debtor of a higher caste than the creditor should not be made to work for the creditor but should be made to pay by instalments according to his ability

587-588 Verse 477 read राजा तु स्वामिने and here the reading is 'राजान स्वामिने विप्र' which would mean 'he (the king) should make a kṣatriya or a brahmana debtor pay to the creditor &c.

589 Harasses —this refers to 'bala' and the other coercive measures (except *vyavahara*) to which a creditor was allowed to resort if the whole claim of the creditor was admitted 'Nyāyavadī' literally means 'one who says that he would pay what would be found by the judge to be justly due Where there was a dispute about the amount of the debt due the creditor's only remedy was a law suit Compare Br p 331 vv 63 65

590 Compare vv 479 and 588 which lay down that a debt may be liquidated by doing work for the creditor

591 Debt and the like —The same holds good in the case of an article borrowed or a deposit Vide v 551 and compare Nār p 44 v 6

(Deposit)

592 An article that is sold (but is still in the hands of the vendor), what is deposited with a man when one is going on a distant journey, a pledge, bailment to one for delivery to another, a loan (of ornaments etc for temporary use), what is handed over to a man as a trader (for sale as an agent)— all these are declared to be *upanidhi*

593 Whatever is deposited with a person should be preserved by him with efforts, the loss of the article arising otherwise than by Fate (act of God) or the king is proclaimed as due to him (to his neglect)

594 He, by whose fault anything (that is deposited with him) is destroyed or lost, should be made to pay the thing together with interest, except in the case of fate or king (*act of God or king*)

595 If the thing bailed is lost even by act of Fate or

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592 The words upanidhi nyasa and niksepa are very similar in meaning but they were differentiated by writers on law 'Niksepa' is a deposit entrusted to a man in his presence after counting before him the coins &c, 'upanidhi' is the deposit of articles enclosed in a sealed box or envelope (the articles not being counted in the presence of the depositee), a 'nyasa' is a deposit not made in the presence of the depositee but handed over to persons in his house for being given into his custody These three words, particularly 'nyāsa and 'niksepa' are often used as synonyms Vide Vir p 361 (for all the three) and Mit on Yāj II 67 for nyāsa and nikṣeka Yāj II 65 defines upanidhi as defined by the Mit. Nar p 120 v 1 defines nikṣeka and p 121 v 5 defines 'upanidhi' Br p 332 vv 2 3 define nyasa (as including both nyasa and niksepa) and upanidhi Manu VIII 185 employs the terms niksepa and upanidhi Kaut p 177 has a chapter on 'upanidhi' and extends the rules about it to niksepa Kat makes 'upanidhi a generic term for all bailments For the definition of 'anvāhita' or 'anvādhi vide v 611 Where A makes a deposit with B and B hands it over to C for being delivered to A this is anvāhita Kat. means that all the rules about the preservation and return of these various kinds of bailments are the same Vide Yāj II 67 Nar, p 123 v 14, Br p. 334 v 15

594 Compare Gautama XII 39, Nār p 123 v 9, Br p 333 vv 10-11 'Fault means negligence &c Compare sections 151 152 of the Indian Contract Act (of 1872) for similar provisions as to the care required of the bailee

595 Compare Nār p 121 v 7 which prescribes punishment for

king after it is demanded back, the bailee should be made to pay the price of it only (to the bailor), there is no doubt about this.

596–597 Whoever uses up (lit eats up) the property of another which was with him as a nyāsa (deposit) or the like, or who takes no care about it or who allows it to be destroyed through ignorance shall be made to return it (or its price). What he used up he should be made to return with interest, he should be made to pay the equivalent (only, without interest) of what he neglected, he should be made to pay a little less (than the price of) of what he allowed to be destroyed through ignorance

598 Where a thing deposited is destroyed even without the act of Fate or king together with the goods of the bailee, the loss is declared to be that of the depositor

599 Where the depositor, even after knowing the (probable) loss of an article, deposits it, there the bailee is not made to pay even if the deposit is lost for any cause whatever

600 Whatever is lost through the fault of the bailee, that loss falls on the bailee, when it is lost or stolen the bailee must offer (to the bailor) the price (of it)

601 The deposit (upanidhi) should be taken back (by the depositor) at the proper time, (the bailee) should avoid (returning it) at an improper time If he returns at an

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not returning a deposit after demand Manu VIII 191 and Yaj II 66 do the same Compare section 161 of the Indian Contract Act

596 97 Compare Yaj II 67, Nār p 122 v 8 and Br p 333 v 11 and see 154 of the Indian Contract Act. The Mit on Yāj II 67 says that ' a little less than ' means ' minus one fourth of the price '

598 Compare Nār p 122 v 9, Yaj II 66, Manu VIII 189 and Br p 333 v 10

599 Where the depositor knows that if he deposits an article with A, it is likely to be lost through the act of God or King and yet deposits it with A the latter is not liable for loss even if it occurred for any cause other than act of God or king

600 The latter half occurs in Par M III p 290 with the reading ' mrte ' and ' āvahet '

601 ' Proper time ' i e at the time when the cause of fear on account of which the deposit was made ceases to exist, 'improper time' if the bailee returns before the cause for fear &c has ceased or before

improper time, he (the bailee) should be made to pay fine double (of the value of the thing)

602 These rules are declared to apply to all kinds of upanidhis

603 If an artisan retains an article delivered beyond the definite number of days during which it was (agreed) to be worked up, he should be made to pay (its price) even if it was lost through Fate

604 The artisan shall not be made to pay (the price) if the article (delivered for being worked up) were to be lost through defects in the article itself. If what is delivered for being worked up is destroyed through the fault of the artisan, he should be made to pay (the price)

605 If an article is destroyed after it is worked up a little only, then the loss (of the wages for that much work) falls on the artisan employed, but when an artisan desires to deliver an article (to the owner) after it is finished, the loss belongs to the (owner) who did not take it, if it be destroyed

606 If (the loan of an article) were taken for a particular purpose or for a definite period of time and a demand

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the bailor demands it Br p 333 v 8 says a deposit should be returned when it is at least once asked for

602 Compare Yāj II 67, Nar p 123 v 14, Br p, 334 v 15

603 Compare sec. 161 of the Indian Contract Act

604 If old worn clothes were handed over to a washerman and they were torn in the process of washing because they were worn out, the washerman was not liable

605 If yarn is given to a weaver and he has only woven the border of the cloth, then if he has to weave it again, he has to do so without demanding additional wages Similarly after the border woven is destroyed and the owner does not furnish additional yarn the wages already paid to the weaver belong to him and the owner cannot demand the wages back.

606 The V M takes this verse to refer to an article entrusted to an artisan, while, the Sm C. and Vir say that it refers to a 'yācitaka' In the middle before the purpose is fulfilled or the time fixed expires The person has to return it after the time fixed

were made in the middle and the article is not returned (on demand), the person (taking the loan) would not be made to pay the price with interest

607 If a person (who has taken an article on loan) does not return it even when requested (to do so) after the fixed period is reached or the purpose (of the loan) is carried out, the borrower should offer the price (to the owner) if the article were destroyed or stolen

608 If (the borrower or bailee) does not return (the thing borrowed or bailed) even though a demand is made he should be made to return it with interest

609 If the owner himself (of the article borrowed as a loan) were (likely) to sustain loss (if the article were not returned when demanded by him), then the borrower should be made to deliver it back even though the time fixed (for the loan) had not expired or even when the purpose (for which the loan was taken) was half accomplished

610 He who having taken the loan of an article does not deliver it even on demand should be restrained and forcibly made to return it and fined if he does not return

611 That is declared to be (a bailment) called *anvadhi* which is delivered to another with the words 'you

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or the purpose is served and has not to pay interest simply because he did not return on demand, and if he does not return it then and the thing is lost he has to pay only the price This verse is an exception to the rule in v 606 Compare sec 153–160 of the Indian Contract Act.

608. This states the general rule to which v 606 is an exception and v 607 is another

609 Compare the more stringent provision in favour of lenders contained in sec. 153 of the Contract Act

610 The lender had not to resort to the several means of persuasion &c, as in the case of a debt, he could at once resort to bala mode and if the borrower did not deliver even then the king would fine him.

611 Vide note on v 592 for an example of *anvadhi* or anvahita

616. (The purchaser) should establish his purchase to be overt by (the testimony of) his own kinsmen who are respectable In this case no other means of proof, whether divine or human is declared (to be proper)

617. Where the party (the purchaser) after putting forward (the name of) the vendor again relies on overt purchase he must produce the seller and no purpose is served by (the plea of) overt purchase

618 If the seller cannot be produced (before the court), (the purchaser) should clear his purchase (as overt). When he has justified his purchase (as overt and so legal) he should not be blamed at all by the king

619 (A purchaser) who does not produce the seller or who does not establish the purchase (as overt) should be made to pay to the owner the price (of the article) as claimed (in the plaint) and a fine (to the king)

620 If the claimant of an article (alleged to be) lost does not establish that as his by the (the testimony of) his kinsmen he deserves to be punished like a thief in order to

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616 No other means &c.—provided such kinsmen are available but if such kinsmen are not available then other modes of proof were allowed

617 This applies to a case where the purchaser at first says he would produce the seller and then tries to prove overt purchase He becomes a hīnavādī because he changes his case and so he is made to stick to what he first put forward as his justification

618 619 Compare Yāj II. 170 Bṛ p 335 v 4 Nār p 145 vv 2 and 4

620 'Prasaṅga' is explained as 'atiprasaṅga' by the Sm. C Claimants must be deterred from advancing false claims and hence severe punishment is prescribed Compare Bṛ p. 335 v 5 The purport of all these rules is If A sells to B an article and C comes forward as the real owner and complains that A had no ownership, C had first to prove his ownership If he failed in this he was fined (verse 620) If he proved his ownership then the purchaser B had either to prove a sale in market overt or produce the seller, if he produced the seller then he had to give up the thing to the rightful owner and claim his money from the seller If he could

prevent the (taking of) undue advantage

621-623 Where a purchase has been made in the midst of a row of traders to the knowledge of the king's officers, but it is made from one whose habitation is not known or where the vendor is dead (after the purchase), the real owner (of the thing thus sold by one not owner) will recover his own chattel after paying half the price (to the purchaser), in such a case both (the real owner and the purchaser) lose a half on account of the rule of law (in such matters) Purchase from a man who was unknown (or whose habitation was unknown) is a fault and so also is being careless about preserving one's goods, both these are declared by the wise to cause loss of property

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not produce the seller owing to distance, he had to prove overt purchase, if he did so, he would be free from blame, but he would have to deliver the article to the owner If the purchaser could not prove even overt sale, then he had to deliver the article to the owner and to pay a fine to the king and he lost his money also Vide Kaut. p. 189 (text) for very similar provisions

621-623. In the midst of a row of traders'—This means that the purchase was not made in secret 'To the knowledge of &c.'—This means that the purchase was in an open market held under the supervision of state officials, even when a purchase was made in the open market and it was proved that the article belonged to another (and not to the vendor), the purchaser, if unable to produce the vendor because his address was not known or because he was dead (after the sale) had to give up to the real owner the article on receiving half of the price Both were equally guilty, the purchaser purchased from one whose habitation was not known and the owner was not vigilant enough to keep his property The law aids the vigilant and not the negligent These verses lay down the doctrine of '*caveat emptor* These rules show that in order to be a valid and legal sale every sale had to be in open market on a market day and at a proper hour Vide Yaj II. 168, Nar p. 145 vv. 2-3 These three verses are Br. pp. 335-336 vv. 7 9

(Partnership)

624 When several persons either traders or artisans, join together or when unseparated brothers (work together or put ancestral funds together) the profit obtained by these is to be enjoyed in equal shares when they separate

625 They must each of them pay without fail in accordance with the agreement (made by them) for merchandise (bought for being sold) food charges, other charges (like tolls) losses (due to bad debts), freight and supervision of valuable property

626 Of those who jointly deal in (or lend for profit) gold, grain or liquids and the like the gain shall be the same as their shares (in the joint funds) whether equal more or less

627 If one out of many partners, being approved (i e authorised) by all alone gives property or contracts a debt it will be deemed to be done by all

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624 This title is so called because there is something undertaken (*samutthāna* = undertaking) by several persons joining together (*sambhūya* = having joined together) In the dharma sūtras there is hardly any treatment of this topic It was therefore one of the titles of law that was developed last In the Aitareya-brāhmana (IX, 1) there is a reference to the fact that in the booty obtained in a battle the warrior was entitled to ¾ ths and the charioteer was given ¼ only Vide Yaj II 259 and Nār p 124 v 1 (for definition) and Br p 340 v 27 for the meaning of śilpin as one who works in gold, silver-thread wood stone, leather &c.

625 This is the same as Nār p 124 v 4

626 This is Br p 337 v 4 Vide Br p 336 v 3 which says that the expenses the labour and the profit of each partner shall be according to the original share of funds contributed by him.

627 'Gives property' i e enters into sale transactions on behalf of the partnership. Most digests read karanam kārayet (he passes a document), which is a good reading and was probably changed into 'ṛṇam ca, as 'karana in the sense of document was not quite well known Compare section 2 1 of the Indian Contract Act (of 1872) This is the same as Br p 337 v 5

628. A debt should be given to agnates other relatives and friends only after taking a pledge from them (as security) and to others (a debt should be advanced) after taking a surety and under a document and before witnesses.

629 Gold may be advanced at one's will but grain and liquids should be advanced for a period (definitely fixed at the time of advance) One should lend and recover according to the custom of the country

630 What was given (or lent) by several (partners) jointly must be recovered by them in the same way (i e jointly), any one alone (from among them) should not demand it (from the borrower), if he does so he loses the gain (or the interest)

631 He who saves from thieves or from water or from fire any chattel should be given a tenth part of it this is the rule in all disputes.

632 If artisans (of four grades of skill) viz apprentices, more advanced students experts (in that craft) and teachers (are employed together in one undertaking) they

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628 This verse lays down that a partner when lending out partnership money to his relatives and friends, should show more care by demanding a pledge or mortgage than when dealing with other people

629 'At one's will —A partner may fix a period for repayment of money or gold or may not fix it at the time of making the advance Compare Br p 337 v 18

630 This is same as Br p 339 v 19

631 Compare Nār p 125 v 6 Yaj II 260 and Br p. 338 v. 10 That partner who saves partnership assets by his own single-handed efforts from loss due to some calamity gets $\frac{1}{10}$ of the price as his special reward 'In all disputes —this rule applies even to property not belonging to partnerships

632 Vide Manu VIII 210 and Mit on Yāj II 265 for an unequal distribution of the one hundred cows offered as 'dakṣiṇā' in the jyotiṣṭoma sacrifice among four principal priests and the three

shall receive one after another in order one two three and four shares (of the profit of that undertaking)

633 635 That booty which is brought by a pillaging party at the command of their king from an enemy country should be divided by them according to the (settled) rule (on this point) after setting aside a tenth part for their king The head of the pillagers should get four shares from that (booty) the specially intrepid (among the pillagers) should get three shares the capable (fighters of the party) two each, and the rest should each get one share If any one from among them whil they are scattered about for pillage is caught then they should contribute according to the r shares towards the payment of the ransom (that the person caught) had to pay for securing his own release

636 This very rule has been declared by the good in the case of dancers one who keeps the time takes a half share, the singers take equal shares, the principals (in the troupe of dancers or musicians) are entitled to two shares each this is (the rule) as regards those who undertake (any work) jointly

637 This is the rule of decision as regards all who engage in a joint undertaking without previously defining their shares such as merchants husbandmen robbers or artisans

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assistants of each of of them Vide my notes to V M p 365 for complete explanation The Pūrvamīmāṁsā had a special discussion on this topic (Jaimini X 3 53–55)

633 634 Compare Br p 341 vv 31–32 Br says that the king of the free-booters should get a sixth part of the booty (instead of $\frac{1}{10}$ as Kāt does) The Sm C explains that Bṛhaspati s verse applies to a very powerful enemy while Kāt refers to a weaker one while the V R explains that $\frac{1}{6}$ or $\frac{1}{10}$ depends upon the proximity or otherwise of the country

636 Br p 341 v 30 has the first two halves and reads ' adhyardham (a share and half)

(*Non-rendition or Resumption of Gift*)

638–639 Wives and sons if unwilling should not be made the subjects of sale or gift wives sons and one's entire wealth could be employed by a man himself (for any purpose of his own), but in times if adversity one may sell or gift away (even one's wives and sons), but he should not proceed to do so otherwise (i e in the absence of adversity) This is the definite conclusion of the Sāstras

640 Whatever belongs to oneself which is over and above of what is required for maintaining one's family may be the subject of gift except one's house or one's entire wealth, what is other than this cannot be given away

641 The same as 471 above

642 He, who having voluntarily promised a gift to a brāhmana does not deliver it should be made to pay it as a debt and should be awarded the lowest amercement

643 A man is born for hundreds of crores of *kalpas* in the form of lower animals if he does not deliver what he has promised or if he takes back what is donated

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638 639 Verse 638 refers to cases where there is no adversity These verses are in conflict with 471 above The Sm C and Par M explain 471 by saying that it applies where a man has an only son while these apply where a man has several sons Vide note on 471 above Nār p 128 v 4 and Br p 342 v 2 and Yāj II 175 declare that son and wife cannot be given away, but the Sm C, explains these also in the same way Compare Kant p 189 (text)

640 Compare Nār p 128 v 6 and Bṛ p 342 vv 3-4 Sm C explains that this verse of Kāt. applies only where there is a single house and that if there are more houses than one acquired in one of the seven modes of lawful acquisition (as laid down in Manu X, 115) a gift could be made of one of them

642 Note v 556 above. Gautama V 21 made an exception that if a gift be promised to one (even a brāhmana) who does not follow the rules of life as required by religious texts, it should not be delivered

643 For the duration of *kalpa* vide note on v 10

644 645. Where a reward is indicated (i e promised) for finding out what is unknown that is declared to be wages when it (the gift promised) is obtained by the finding ou (of the thing unknown) That is known as a gift obtained through gratitude when it is obtained in the following manner viz. (in return) for protection from danger, for guarding (the property of a minor &c) and for effecting some desired object (such as marriage)

646 To him who will rescue me who am in danger of life from this state, I shall give my entire wealth —even when this (promise) is uttered it cannot be so

647 What is promised through lust or wrath or by those who are dependent (like servants or slaves) by those distressed, by those who are cowards (or are frightened) by lunatics and by those who are infatuated or through mis apprehension or joke may be taken back (or withdrawn)

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644 645 Nār p 129 v 8 and *Br* p 343 v 8 speak of seven and eight kinds of val d gifts respectively two of which are bhrt h and pratyupakāratah Kat in these two verses explains those words. Bhṛti seems to mean a reward prom sed for find ng out a lost art cle or an unknown offender &c.

646 If a man promises to give all his wealth for being freed from a dangerous s tuat on the man who saves h m from that situation cannot get his whole wealth It cannot be so — It would not be the property of the man who saves it cannot be a valid gift.

647 Misapprehens on — vyatyāsa s so translated It means as V R expla ns to give to A when B was meant to be the donee or to g ve an art cle X when Y was intended to be given The general rule as stated by Yāj II 176 is what is promised must be g ven and what is g ven should not be taken back Th s and the following verses give the k nds of promises that need not be kept and g fts that are inval d Compare Gautama V 22 Nār p 130 vv 9–10 *Br* p 343 vv 9 10 As regards gifts by ārta distressed) there was a special rule in favour of the r validity as embodied in v 566 above

648-649 What is promised as a bribe (to a man) for accomplishing a certain object need never be given, even though that object be accomplished But if it (the bribe,) be already paid, it should be *forcibly returned (to the promisor)* and a fine eleven times (as much as the bribe should be levied), this is what the followers of Garga and Manu say

650-651 That is said to be 'utkoca (a bribe) which is obtained by these, viz by giving information about a thief, about a felon about one who breaks the rules of decent conduct, about an adulterer, by pointing out those who are of bad character or by spreading false reports about a person. In these cases the person offering the bribe is not to be fined but the intermediary deserves blame

652 653 If a man who is appointed to (do) certain duties (by the king) obtains a bribe he should be made to return the whole of the money (given as bribe) and to pay a fine eleven times as much (to the king) *If a person who is* not appointed to do a certain duty obtains a gratification which is in the nature of return (or reward) out of gratitude for (a kind) deed he incurs no blame

654. Same as 566

648-649 'Utkoca' (or utkoca in the masculine) is defined in vv 650-651 Eleven times —Eleven times the bribe was the fine to be paid to the king by the person accepting the bribe These two verses are quoted in *Shri Sitaram v Shri Harihar* 1 L. R. 35 Bom 169 at p 180 where it was held that if an adoption was induced by a bribe given to a widow the bribe was an illegal payment and cannot support a sale or gift

650-651 'Giving a thief — by suppressing information about a person who is really a thief or threatening an innocent person that he would be reported a thief, 'asatyapravartana' may also mean by offer to procure false witnesses' 'The intermediary'—The person who approaches both the giver and the taker of the bribe was fined and so was the receiver of the bribe fined But the person who offered the bribe was let off, in contrast to the modern provisions of the Indian Penal Code in sec 161 and the following sections read with sec. 109

655 What is mortgaged or sold through deceit or what is gifted or accepted through deceit or wherever (the king or judge) sees fraud all such transactions he should annul

(Non payment of wages)

656 When no wages are settled the trader the cowherd the husbandman should get a tenth part respectively of the profit of the milk and of the crops

657 He who having begun a work does not finish it at all should be forced (by the king) to finish it he deserves to be fined if he does not do it

658 659 A palanquin bearer causing an obstacle at the time of starting should be made to pay double the wages (settled) (A servant) should not be made to pay when a thing (entrusted to him) is plundered by thieves or is burnt or carried away by a flood

660 (The master) who abandons on the road (while on a journey) his servant when he is tired or afflicted with disease should be fined the first amercement if he does not wait for three days in the (neighbouring) village (to look after his servant)

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656 This verse should have been placed under non payment of wages The trader who sold as an agent a thing for the owner should get a tenth part of the profit made in the sale by the owner the cowherd employed to look after the cattle and to milk them is to get a tenth of the milk and the field labourer 1/10 of the crops (land seed and implements being furnished by the owner) Compare Yaj II 194 and Nar p 139 v 3

657 The Sm C says following a verse of Vrddha Manu that the fine would be two hundred kārṣapaṇas Compare Āp Dh S II 11 28 2 3 which provides for a field labourer or cowherd giving up his work

658 659 Palanquin bearer This is only illustrative and includes every one (like an armed escort) Obstacle simply means refusing to start at the time settled Compare Nār p 148 v 8 and Yaj II 19

661 When the goods (or merchandise) are attached or carried away on the road, (the servant) should get as much wages as are proportionate to the distance already traversed

662. He who having hired elephants horses, bullocks asses camels and the like does not return them though his work is finished shall be made to return them together with the hire (until the date of return)

663 He who having taken on hire a house a water (tank) market or the like does not return it to the owner (even when his work is done) should be made to pay the hire (till the date of return)

(*Dispute between master and herdsman*)

664 When (cattle) enter into fields parks reserved pastures houses and cowsheds they should be seized or beaten. This is the view of Brhaspati

665 In the case of beating of the beasts of the lowest, middle and highest class, if their owner raises a dispute (the king or judge) should there prescribe the fine.

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661 'Attached — by the kings officers (such as toll-gate keepers), 'carried away by robbers &c This applies to a case where a lump sum is fixed as the wages for carrying certain merchandise for a certain distance

663. 'Water — means a water vessel' according to the Sm. C. and Vir, V R seems to take it as referring to water tank dug by the owner

664 Compare Āp. Dh S II. 11 28 5-6. The Sm C says that the calves should be seized and the big bullocks should be beaten

665. 'Raises a dispute —If the owner of the trespassing beasts pleads that the beating was more severe than necessary or allowed by the śāstras and proves his contention the owner of the field trespassed upon was fined according to his fault.

666 Before the crops have grown (the owner) should construct a high paling (surrounding them) Animals (or deer) when they have once tasted the sweet (crops) can be warded off only with great difficulty

667 He (the king) should make the (owner of a tres passing) cow pay a fine of a fourth pana (the owner of) a she-buffalo two quarters of a pana so also the fine in the case of goats sheep and calves is declared to be a fourth (of a pana)

(*Violation of compacts*)

668-669 Members of groups while strictly adhering to their individual duties (as laid down in the śāstras) should perform all their actions according to the conventional rules of their various groups If royal edicts (or commands) that are issued are not in conflict with one's duty (as laid down in śruti and smṛti) one should by the king's order first perform those acts only

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666 Compare Manu VIII 239 Nar p 164 vv 40-41 This verse applies to a field which is near a forest while Nār p 164 v 41 applies to a field which is near a public road

667 Pana here means karsapana ' In the various smrtis various fines are enumerated which apply to various sets of circums tances Vide Gautama XII 19 23 Nār p 161 v 31 Yaj II 159 160 Manu VIII 241

668 669 Compare Yaj II 186 Br p 347 v 5 Nar p. 153 v 2 The Mit mentions among compacts made by groups in a village the rules about pastures about the distribution of water and preservation of temples and among royal edicts (not in conflict with *dharma*) such as giving food to travellers coming to a village not selling horses to persons from an enemy country Br p 348 vv 11 12 give as examples of agreements made by groups and reduced to writing the following The construction of a house of assembly a shed for giving water to travellers a temple a tank, a garden relief to helpless people, performance of sacrificial acts, a common path or defence shall be undertaken by us in proportionate shares The Sm C says that if a king's order (e g a field or house donated by the king should not be sold or mortgaged) is opposed to the general rules of dharma then it impliedly follows from the above verse (669) that it need not be obeyed

670 That wicked man who would not observe the rules put in vogue by the king should be censured and fined as he sets at naught the king's order

671 He (that member of a group) who opposes what is reasonable who gives no scope to the speaker (when the group meets) or who speaks what is absurd should be made to pay the first amercement

672 He who is guilty of sāhasa (a heinous crime) who causes a split (in the group) or who destroys the wealth belonging to the group—all these should be proclaimed to the king and destroyed (by the group), this is the view of Bhrgu

673 He who can eat in the same vessel or in the same line with another should be fined if he refuses to do so without pointing out the fault (in him that prevents such commensality of food)

674 Whatever debt was incurred (by the spokesman of groups) as for the (purposes of) the group but was misappropriated (lit eaten up) by them or was applied to their individual purposes must be paid by themselves only

675 676 Those who (subsequently) enter into groups corporations and classes become equally entitled to the property and liable to the debts (of the groups) previously (acquired

or incurred) One who is inside a group is entitled to a share in the food, the partible things (like grain), in the charities, and religious duties (of the group) but one who has gone out (of a group) is not entitled to a share

677 Whatever is obtained by *them* (i e. by the advisers of groups) or is saved by them or whatever debts are incurred by them for their group and whatever they obtained through the favour of the king should be equally shared by *all* (members of the group)

678 A group of several inhabitants of the same city is called ' naigama a troop of persons bearing various kinds of weapons are declared to be vrata

679 A group of merchants and the like is declared to

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677 Yaj (II 189 190) says that when the principal men of a group wait on the king the latter should listen to them and send them away with honours and *gifts* and that whatever they obtain from the king they should hand over as the property of the group This is rajaprasadalabdha The principal men of a village represented the village in a boundary dispute The additional land they may obtain belongs to the whole village This is whatever is obtained &c Compare Br p 349 vv 22 and 24

678 Narada has a verse पाषण्डनैगम-श्रेणीपूगव्रातगणादिषु । संरक्षेत् समयं राजा दुर्गे जनपदे तथा (Nar p 153 v 2) the various terms in which have been differently interpreted by different commentators Kat explains in his own way most of these terms Yaj II 192 is a similar verse The Mit explains Naigamas as sects like the Pasupatas who though not accepting all the dogmas of orthodox Brahmanism accept the Vedas (*Nigama*) as authoritative The Madanaratna explains ' naigamah as merchants who form a caravan The word vrata occurs even in the Vedas and means a collection or multitude ' (Rg I 163 8 VI 75 9 IX 16 and Vaj Sam III 55) The Mahabhasya on Panini V 2 21 (vratena jivati) explains vrata as a group of men of several castes and several occupations who make a living by relying on their tall bodies

679 The word puga occurs in the Kausitaki brahmana 16 7 (pugo vai Rudrah) where Rudra is called puga Panini (V 2 59) strings together puga, gana and sangha Medhatithi (on Manu IV 30) explains pasandin as Bauddhas and others *who do not recognise the* Vedas Mit explains it similarly p ga is explained by the Smr C as elephant and horse riders while the V R says that some explain it as meaning multitudes of persons of various castes whose means of subsistence are not fixed

be 'puga' and those are said to be 'pasandas' (heretics) who have forsaken the (rules of the) order of ascetics

680 The corporation of brahmanas is called *gana* and those who subsist by following some craft are called craftsmen

681 The groups of the followers of Arhat (i e the Jainas) and of the followers of Buddha are styled saughs and the companies of cāndalas and svapacas (those who eat dog flesh) are called gulma

682 Ganas heretics pugas vrātas and *srenis* (corporations) and all others who constitute groups are styled *vargas* (groups) This is what Brhaspati says

(Repentance after purchase and sale or repentance after purchase or non delivery after selling)

683 He, who after having purchased a thing and having brought it under his control does not receive it or he who does not deliver it as free from defect (such as being wet) should pay a tenth part of the price to the other (side) and would obtain his property

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680 The Mit. on Yāj II 192 explains gana as 'an assembly of persons armed who subsist by following one avocation' Gana occurs in the Vedas (Rgveda I 14 3 I 64 12 and Tai. Saṁ V 4 77 speaks of the Maruts as formed into gana)

681 Sangha is well known in Buddhist works. Buddha Dharma and Sangha these constitute their great trinity Kaut p 12 speaks of sangha of Vrsnis perishing through their attempt against Dvaipayana

682 Sreni occurs in Rg I 163 10 (where it is said that like hamsas they work in groups) The Mit explains that a sreni is a guild or corporation that follows the same trade or craft Compare Gautama XI 21 where it is said that husbandmen merchants herdsmen money lenders and craftsmen are authority as to the usages of each varga (group) Vide v 349 above which is similar

683 This applies to one who having purchased a thing repents of it and so does not accept delivery or one who having sold a thing does not deliver it compare Nār p 149 1 and p 146 v 1

684 When the time of employing a thing for the purpose (for which it was purchased or sold) has not arrived then (the king) should not make (the defaulting party) pay (the tenth part of price) though receipt (of the thing purchased) or delivery (of the thing sold) is not made This is the rule up till the 10th day, beyond that there is no (recognition in law of repentance)

685 In the case of land (repentance is allowed) to the seller up to the tenth day, the same is the time for the buyer, twelve days are allowed to sapindas (for repentance in the case of lands), lesser time than this (is allowed) in other cases

686. If after purchasing (an article) the purchaser repents and does not receive the article such as milch cattle though it has no defect at the time (of repentance) he should offer a tenth part of the price (to the seller)

687 If the purchaser after purchasing an article, begins to repent when it has been delivered to him, then a wise man after giving a sixth part of the price should give up the thing purchased

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684 When a cow or bullock is purchased for milk or carrying burdens and the purchaser refuses to receive the cow or bullock before that time arrives or the seller refuses to deliver he had not to pay even the 10th part of the price This is a special case Compare Manu VIII, 222-223 for the period of ten days for repentance Nār (p 150 vv 2 and 3) allows a shorter period for repentance The Par M explains that the shorter periods apply to things that are lost or deteriorate by use even for a short time

686 V R explains 'at the time' as 'at the time of paying the price', while the Sm C explains as above According to V R this verse applies where a thing was purchased without examination

687 V R says that the former verse applies where the thing purchased has not yet come into the custody of the purchaser The Vir says that this verse (viz payment of ⅙) applies where the thing purchased is such as perishes by use

688 If what was purchased without being properly understood (by examination) is later on proved to have defects, that purchased article may be returned to the owner within the time (prescribed for examination) but not otherwise

689 Where (a seller) having shown an article free from defects (as the one to be sold) delivers one that is full of defects, he should be made to pay double the price (to the buyer) and an equal fine as punishment (to the king)

690 If an article were to be burnt or carried away (by thieves) the loss falls on the seller only, when having sold it he does not deliver it

691 And where the purchaser does not accept the article purchased by him when it is being delivered to him, then the seller, if he sells it to another, would not be guilty of any fault

692 What has been sold by one intoxicated or insane or for inadequate price or through fear or by one who is not his own master or by an idiot should be relinquished (by the purchaser) it still belongs to him (the seller)

693-694 One (the purchaser) should examine milk animals for three days, a beast of burden for five days and the examination of pearls, diamonds and corals may be for seven days Half a month (may be allowed) in the case of male bipeds

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688 An article though full of defects cannot be returned after the time prescribed for examination This embodies the doctrine of *caveat emptor* Vide vv 621 623 above

689 Compare Br p 350 v 4

690 Compare Yaj II 256 Nar p. 148 6

691 Compare Yaj II 255 Nar p 148 v 3 Yaj provides that the loss on resale falls on the defaulting buyer for which compare sec. 107 of the Indian Contract Act.

692 The last quarter may be construed that man (the purchaser) will have to relinquish it Compare Br p 350 v 5.

693 694. These are the same as Nar p 150 vv 6 Compare Yaj II 177 who compresses in one verse the contents of these two verses Male bipeds — means slaves This verse applies where the thing is purchased without examination If an article ...

(for examination) and twice as much in the case of females, ten days for all kinds of seeds and one day for iron and clothes

695 If some blemish in the article purchased is seen before the periods (specified above) expire the article should be returned to the seller and the purchaser will get back the price (paid by him)

696 When a garment is worn out by use is in a tattered condition and soiled if it is purchased even with all these (patent) defects it cannot be returned to the seller

697 If a thing jointly owned (by several) were purchased a single vile man cannot deliver it (to the buyer) It should not be received nor taken nor should it be sold

698–699 Where a purchaser after purchasing a chattel for a price thinks that he has made a bad purchase he should return it to the seller the very same day without looking at it The purchaser returning it on the 2nd day should offer (to the seller) a thirtieth part (of the price) and double of this (i e 15th part) on the third day After that (the third day) the article belongs to the buyer himself (and cannot be returned)

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chased after examination it cannot be returned Vide Nār p 150 v 4 and Br p 350 v 3

695 Vide Br p 350 v 6 for the same verse

696 This is the same as Nār p 150 v 7

697 Property in a thing belonging to several persons jointly cannot pass by the act of one alone without their consent.

698 Without looking at it without stopping to examine it. If we read avikṣatam it means (he should return it) without any damage to it (and if some damage has already resulted then with compensation) Both 698 99 are the same as Nār pp 149–150 vv 2 3

700. After dividing the value of a thing into five parts, three parts are declared to be the price of it, the fourth part is the profit and the fifth is meant for truth.

701. A compromise and an exchange, if they are unequal, can be annulled for three generations and a sale by order can be annulled up till the 10th year.

702. The conclusion is that there can be no lawful sale or purchase of land without securing the approval of the kinsmen (of the seller and buyer) who are neighbours (i. e. owners of neighbouring lands) and who are respectable men.

703. In the same village a period of ten nights (for vetoing by kinsmen the sale made by one of the kinsmen) is prescribed; when (land sold is) in another village, the period is three fortnights, when in another country six months, when the language (of the kinsmen vetoing) is different, a year.

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700. This verse applies according to Saras to trade in saffron It is somewhat obscure. If 3/5 ths of the value of a thing in the eyes of its owner are offered, it is an adequate price. 1/5 of the value really corresponds to the profit which the seller wants to make and the other 1/5 is what he wants for holding the purchaser to his transaction i e. it represents what the seller thinks should be compensation to him if the sale goes off

701. This is cited by the Saras. as from Vrddha Kātyāyana An nṛpakraya appears to be a purchase by order of the king of a man's land for recovery of the land revenue or other state dues Vide v. 704 below The Saras. quotes verses from Bhāradvāja and Sumantu to the effect that a compromise, an exchange and a partition can be resiled from for ten days even when it is fair, but up to nine years when any one of them is unfair. Thus the rule about repentance for ten days in the case of sales is applicable to other transactions also

702. The Mit on Yāj II, 114 quotes a similar verse "स्वग्राम-ज्ञातिसामन्तदायादानुमतेन च । हिरण्योदकदानेन षड्भिर्गच्छति मेदिनी ॥" and remarks that the consent of the villagers, kinsmen and coheirs was to be taken simply for the purpose of giving notice to them of the intended sale and of neighbours for avoiding disputes about boundaries in future. So Kat must be interpreted in the same sense.

703 This verse seems to lay down the periods during which kinsmen could prevent a sale by one of them becoming perfect by opposing it and withholding their consent.

704 If the man liable to pay the (land) tax absconds along with the surety for the tax the members of the (royal) audience hall should sell the land of the taxpayer for recovering the tax

705-706 What is decided upon by the neighbours gathering together who know (the land &c and its value) and who are afraid of sin as the price of fields gardens houses and the like and of bipeds and quadrupeds that is said to be their proper price Dividing that price into eight parts, any price (offered by a buyer) which exceeds by $\frac{1}{8}$ th or is less by $\frac{1}{8}$ th (of the price so decided) is to be known as improper

707 All that (i e a sale for inadequate price) can be annulled even when a hundred years have elapsed In purchases and sales (a thing) should be sold for that price which the article deserves according to the rules (of śāstra)

708-709 If when a purchase or sale is effected and when the price is less by a fourth fifth, sixth seventh or even eighth part (of the proper price arrived as laid down above), all that becomes (a transaction) for an inadequate price and though carried out must be (regarded) as not done (i e as invalid) But a purchase is not at all defective when it is (for a price) a little less than (the price arrived at as above)

710 But when a purchase or sale falls short as to price by that part then the transaction though carried out is declared by those who know *dharma* to be invalid

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706 Supposing the proper price of a house decided upon by the kinsmen is 800 rupees then any price below 700 is inadequate and any price above 900 is improper or too high

709 A purchase for 750 when the proper price arrived at under v 705 is 800 Rs is good

710 By that part i e by more than $\frac{1}{8}$ th of the proper price

711. A sale of '*uktalābha*' kind will be valid if it is for more than half (the price of the thing as settled by the rule above) provided more than ten (years) have elapsed (after the period fixed in it) An *avakraya* (transfer for hire by a bailee) becomes valid after enjoyment for three generations and a purchase by mutual agreement (between the seller and buyer) becomes valid at once

712 The purchase of an article may be rendered valid even when much less than the proper price has been paid, but (the balance of the price) would have to be paid with compound interest if there is no agreement (as to the time when the balance of the price is to be paid)

(*Breach of a contract of service*)

713 That master, who would not teach (his apprentice)

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711 An 'uktalābha seems to be the same as the mortgage by conditional sale defined by sec 58 (C) of the Transfer of Property Act The Saras p 324 quotes the following definition 'क्रिकाश्च द्रव्यमादाय काले दास्यामि ते ऽर्चित । नो चेन्मूल्यमिदं त्यक्तं भेदास्येति च सय । स उक्तक्रय इत्युक्त उक्तकालेष्वनप्यात् ॥' *Avakraya* is a transaction where by a bailee transfers to another an article for hire e g where a washerman to whom a garment had been given for washing gives it to another (than the owner) for a time in return for hire Vide Mit on Yaj II 238 ('Vikrayavakryadhānayacitesu panān daśa') for definition of avakraya Pānini (IV 4 50) uses the word 'ava kraya , but it is explained as the dues recoverable by a king from a market &c Gautama XII 39 uses 'avakrita' in the sense of 'what is purchased but the price of which is altogether unpaid or only partially paid' This meaning may suit in this verse If a man purchases a thing without paying the price ownership in the thing is not perfect for three generations

712 Compound interest will be calculated for the balance, when no time has been fixed if a time has been fixed for the payment of the balance then till that time only the balance has to be paid But even within that time if a demand is made there is compound interest calculated from the date of demand

713 Abhyupetya means 'after having made an agreement, after having accepted and aśuśruṣā means not serving or waiting upon Compare Nār p 133 v 17 According to Nārada

the craft (for learning which he is apprenticed) and employs him for do ng other work should be fined the first amercement and the apprent ce should return from him

714 An apprent ce although he may have (thoroughly) learnt (the craft) should indeed do (at h s teacher s house) the work undertaken by h m The fru ts of the work that he may do there (in the teacher s house) belong to the master himself

715 716 Bhrgu holds that (a man) becomes a slave as he surrenders himself when free (to another s will) just as the wife (surrenders her person to the husband) (Members) of three varnas can become slaves but a brāl mana can never be a slave Slavery in the case of the (three) varnas viz ksatriyas vaiśyas and s idras is in their direct order and not in the inverse order when they surrender the r independence

717–718 Even one of the same caste (i e a brahmana) should not make a brahmana work as a slave s nce the glory (lit lustre) of a king becomes tarn shed by the slavery of a brahmana A man who s a ksatriya va śya or śudra in his duties may occasionally do the work of a slave for a man of the same caste (as h s own) but a brahmana should never

(p 131 vv 2 3), there are five sorts of attendants pup ls (ś sya) apprentices (antevas n) h red servant (bhrtaka) supervis ng offic al (adh karmakrt) and slave An apprent ce is one who des r ous of learn ng a craft or art (l ke danc ng and s ng ng) res des w th a master w th the consent of h s relat ons hav ng fixed the durat on of h s apprent cesh p (v de Nar p 133 v 16)

714 Even f a pup l masters the tech nque of the craft qu ckly l e had to rema n w th the teacher t ll the per od of apprent cesh p agreed upon exp red Compare Yaj II 184 and Nār p 134 v 19

715 716 In the d rect order — a śudra could be the slave of any master of the four castes a va śya of any master of the first three castes but not of a śudra master a kstr ya could be a slave of a brāhmana or ksatr ya master but not of a va ya or śūdra master Slavery is here ass m lated to anuloma marr ages Compare Nār p 137 v 39 and Yāj II 183 (latter half)

be made to do the work of a slave This is the view of Bṛhaspati.

719 A brāhmana may, if he chooses, do work of an *inferior kind for another brāhmana* who is possessed of (high) character and Vedic learning, but even then a brāhmana should not do what is impure work

720 Sweeping fæces and urine shampooing (the master) when naked and taking charge of (or seizing) bulls and the like—these should generally be done by the issue of female slaves

721 Where the three varnas, brāhmana and the rest become apostates from the order of ascetics, the king should banish the brāhmana from the country and should make the kṣatriya and vaiśya work as a slave

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719 A brāhmana could not be made to work as a slave even by a brāhmana, but a brahmana may of his own will do menial work for another learned brāhmana as an act of good will (as paropakara) and not for wages but he was not to do even for a brahmana impure acts like sweeping the gate privy or road shampooing private parts &c Narada divides occupations into śubha and aśubha which latter are to be done only by slaves, Vide Nar pp 131-132 vv 6 7 for impure acts

720 V P explains ' nagnatravanamardana as ' helping to put on clothes when the master is naked

721 Compare Nār p. 137 v 35 and Yaj II 183 who declares that one who has fallen from the order of asceticism becomes a slave of the king till his own death One who does not do the duties appropriate to a saṁnyāsin is pravrajyāvasita according to the Mit, and becomes a slave if he does not perform the proper *prayaścitta* (penance) Dakṣa declares that he who is an apostate from asceticism should be branded with a red hot piece of iron resembling a dog's foot, and then banished If the king is himself a vaiśya or śūdra, this verse shows that one who was a ksatriya and became an apostate may thus become the slave of a vaiśya or śūdra (king) So far this is an exception to v 716

722 One may make the śudra work as a slave whether he be purchased or not purchased, the creator himself created him for slavery.

723 When a master has sexual intercourse with his female slave and the latter then gives birth to a son, the master looking to the seed (which was his own) should make the female slave free from slavery together with her progeny

724 The wealth that a slave has belongs to the master (of the slave) But the master is not entitled to that money which (the slave) got by selling himself openly

725 A woman who is not a slave if she is married by a slave, becomes a slave since her husband is her lord and the husband is dependent on the master (whose slave he is).

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722 Manu VIII 413 reads 'brahmanasya for 'svayam eva' in this verse

723, Compare Kaut p 183 (text स्वामिनस्तस्यां दास्यां जातं समातृक मदासं विद्यात्) 'Looking to the seed — The Sm C explains this as 'looking to the fact that she conceived from him and that otherwise his own child would be a slave V R says that this applies when the master has no son For the method of freeing a slave vide Nār p 138 vv 42 43 This verse is referred to in I L R 7 Mad 407 at p 412

724 Compare for the first half Manu VIII 416 (which is the same as Nār p 138 v 41) and Mahābhārata Udyogaparva 33 64 (which is slightly different) The reading of the Vivādacintāmani prasāda vikrayāt' gives the best sense meaning 'what the slave gets through the favour of his master and the price he got by selling himself do not belong to the master

725, A woman may be free and marry a slave then she becomes the slave of the same master, A woman though a slave may not be the slave of that master whose slave her husband is. If her master consents to the marriage then he loses his ownership and she becomes the slave of another But if the marriage takes place without her owner's consent, then she does not cease to be his slave and her slavery to the husband's master is only indirect,

726 729 If one would take (i e buy) a brāhmaṇa woman (as a slave) or would sell her, the king should annul that (transaction) and all of them (buyer, seller &c) would be liable to pay a fine He who enslaves a woman of a respectable family that took shelter with him at her pleasure or who transfers her to another as a slave should be fined and that transaction should be annulled He who enjoys the nurse of his child or another woman who is not his slave or the wife of his servant as if she were a slave, should be fined the first amercement He who though well off and not involved in any misfortune desires to sell a female slave who is faithful and who weeps bitterly should be fined two hundred

730 He who being not his own master offers himself to another (as a slave) saying 'I am thine', he (the slave) would not secure his desire and his former master would get him back

731 One who becomes a slave because he is an apostate from the order of asceticism cannot be freed from slavery by anybody One who was maintained during a famine is freed from slavery if he gives a pair of oxen

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726 729 For 726 compare Viṣṇu V 151 'Another woman who is not his slave i e who is placed under his care or who comes to him for shelter 'Weeping bitterly i e who is unwilling to be sold to another 'two hundred — this refers to panas The verse implies that if the slave is not devoted to the master, no fine is incurred by selling her

730 Not his own master' i, e being already the slave of one man would not secure his desire i e he cannot be the slave of the other man to whom he desires to go This is the same as Nār p. 138 v 40

731 Nār (pp 135-136 vv 26-27) enumerates fifteen kinds of slaves of whom 'pravrajyāvasita (apostate &c) and 'anakāla bhṛta (maintained in a famine) are two So Kat has in view Nārada's verses Manu VIII 415 mentions seven kinds of slaves but he does not exclude a larger number With the first hal compare Yaj II 183 and Nār p 137 v 135 and vide v 721 above The only way in which an apostate from asceticism could gain his release would have been by saving the king's life from danger by endangering his own life Vide Yaj II. 182 and Naj p 136 v. 30 The latter half of 731 is the same as Nār p 136 v 31

(*Boundary disputes*)

732 There are six causes of land disputes, viz larger extent of share or deficiency of share, the existence or non existence (of a share in the land) seizing or possession when there was no possess on and boundary

733 In boundary disputes enjoyment (i e possession) should be relied upon (as the means of proof) and (that) depends upon witnesses A witness is of two sorts, viz one who has subscribed himself on a document and one not so

734 When a dispute between two men arises as to fields, houses ponds wells gardens and dams the neighbour who dwells on the border is the deciding evidence in all these matters

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732 The Mit on Yāj II 150 explains these six — When one says that he has more than five *nivartanas* of land in a particular area and another says that he has only five and not more this is a dispute as to adhikya (larger extent) if one says he has five *nivartanas* of land and another says that that man is entitled to less that is a dispute about deficiency (nyunata), where a man says that his share is five nivartanas and another says he has no share that is a dispute concerning the existence or non-existence of a share when one says that his land which was never in the enjoyment of another has recently been taken into his possession by that other and that other says his enjoyment is immemorial that is abhogabhukti cause of dispute Whether this is the boundary or that is the sixth cause of land dispute But in all s x boundaries have directly or indirectly to be settled and therefore all may be included in the topic 'simavivada A boundary dispute may relate to one between countries villages fields and houses

733 It is bettor to read sa ca sākṣiṣu Compare Manu VIII 252 253 A witness in a boundary dispute is defined by Brhaspati as आगमं च प्रमाण च भोग काल च नाम च। भूभागलक्षण चैव ये विदुस्तत्र साक्षिण ॥ quoted in स्मृतिच॰ III p 537

734 Compare Vasistha 16 13 गृहक्षेत्रविरोध सामन्तप्रत्यय and Manu VIII 262

735 When there are neighbours (available as witnesses) (the king or judge) should decide (disputes about the boundaries of) fields and the like by (the evidence of) neighbours, so also about boundaries of villages towns and districts

736 A village is the 'sāmanta' in the case of (another) village, a field in the case of a field and a house in the case of a house, since these stand (as if) embracing (each other) all round

737 In the absence of them (witnesses) *samantas, maulas, vṛddhas* and *uddhṛtas* are in order (the means of decision) in all the six kinds of disputes about immovables This should not be doubted

738 *Sāmantas* are those who are inseparably connected (with the village in dispute), then beyond them are those who are connected with them and then come those who verge on those who are connected with the samantas — all these are like the lotus (with numerous layers of petals)

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735 'Samanta' is derived from 'samanta' and means 'those who stay round about' (samantad bhava) Omit the *avagraha* after 'samantabhave

736 When there is a doubt about the boundaries of a village the four villages round that village in the four principal directions are the neighbours (samantas) The words village field house stand for persons dwelling therein or owning them Compare Manu VIII 258

737 Maulas and the other two are defined in vv 743-745 The six kinds are those in v 732 'In the absence of them — in the absence of the two kinds of witnesses mentioned in verse 733 Vide Manu VIII 258 for samantas in the absence of witnesses

738 The four villages immediately on the boundary of the village in dispute are called *samantas* (or saṁsaktas) these are sāmantas *par excellence* the four villages beyond these four are saṁsaktasakta The four villages even beyond the 2nd group of four are saṁsaktasaktasaṁsakta These latter two classes also may be called samantas in a secondary sense They resemble a lotus the inner petals being samantas the next layer being the saṁsaktasaktas and so on.

739 740 When the samantas (the first row of surrounding villages) are shown to be vitiated by defects for establishing the purpose (viz the correct boundary) the decision should be made, as the matter (of boundaries) is a very important one, by (the evidence of) those (villages or villagers) who come immediately after the (first row of) sāmantas. There is no doubt about this When faults (are shown) in those who come immediately after the sāmantas (the first group of villages), those (i e the third group) who are after these (after the 2nd group) are declared (to be the persons whose evidence is decisive) But the king who knows the law should not hold those who are shown to be vitiated (as proper persons for giving evidence as to boundaries)

741 The samantas (neighbouring villagers) are not free from their duty of (helping in) decision (of a boundry dispute) by (pretending) ignorance When they profess that they are ignorant they should be fined and (the king) should further proceed with the consideration (of the boundary dispute) when they (sāmantas) have deposed and there is contradiction (in their testimony) they should be fined the highest amercement

742 Giving up neighbours (sāmantas) if they are vitiated (by partiality &c) the king should settle (the

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739 740 Vitiated by defects i e they are seen to be partial owing to friendship or enmity The sāmantas even though shown to be partial owing to friendship or enmity are not to be regarded as proper persons simply because they are sāmantas if they are partial then the next row (saṁsaktasaktas) are to be relied upon

741 'Further proceed i e he should rely on documents and on the evidence of other persons (like maulas &c) Vide Vis 16 14 सामन्तविरोधे स्वप्रत्यय Nar p 156 v 7 prescribes the second amercement in this case and so do Manu VIII 263 and Yaj II, 53 Therefore Katyāyana's rule is applicable where their deposition is grossly false

742 *Others* — these are persons *other than sāmantas, i e* they are citizens and other villagers &c It is better to read 'samīkṣya (having considered) or sammarśya' as V R and

boundary by mixing up others with the *maulas* and the rest Those who know the law declare this to be the law (on boundary disputes)

743 Those are called by the sages *maulas* who were at first sāmantas (of the disputed land) and afterwards migrated to another country, (being called *maulas*) because they (were) principal ones (at one time)

744 Those are called *vrddhas*, who, whether they are actually old or not, being endowed with the (good) qualities of men saw the matter (of the boundary) when it was effected

745 They are known to be *uddhrtas* since they being marked with the characteristics of knowing (the boundary) from others, enjoyment, recovering the taxes (of the land in dispute) popular report, help to decide the matter

746 Samantas are the first means of proof (in boundary disputes) but if their undesirability is pointed out, then those who are beyond them (are the means) provided they are

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Sm C respectively do Manu VIII 259 also says that in the absence of samantas, the king should rely on *maulas* and in the absence of these on others

743 'Maula' is derived by Kat from 'mula' (the root) At one time being sāmantas they were of prime importance and hence they are called maulas (though they are no longer sāmantas)

744 'Whether they are actually old or not — Being old is not an essential requisite of the definition They must have seen the boundary being actually laid down or described in former times

745 Uddhrtas are those who know the boundary in an indirect way i e by hearsay &c 'Karya' is explained as 'karagrahana', 'akhyāna as 'vartā and 'upaśravana' as 'paraspara prasiddhi by Apararka

746 This verse declares that samantas or saṁsaktas are the principal persons, if faults (due to friendship or hatred) are shown in them, then the next group (saṁsaktasaktas) is to be taken, but

possessed of good qualities and are double in number (of the sāmantas), those other than these last (i. e saṁsaktasaktasaṁsakta) must be three times as many (as the sāmantas)

747 Even a single person, if acceptable to both (parties to the dispute), may in some cases lay down the boundary as it should be, he should do so clad in red clothes with an unperturbed mind and after placing a clod of earth on his head

748 In the absence of all, (the proper boundary) is the one determined by the king himself who is free from all sorts of apprehensions

749. (This procedure should be followed in deciding boundary disputes) about large fields, wells, tanks, enclosed fields, gardens, houses, mansions, cottages, king's palaces and temples

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their number must be double of the saṁsaktas Yāj II 152 laid down that the number of samantas must be 4, 8 or ten So the saṁsaktas aktas must be 8, 16 or 20 Compare Śaṅkha Likhita 'गृहक्षेत्रयोर्विरोधे सामन्तप्रत्यय, सामन्तविरोधे अभिलेख्यप्रत्यय, अभिलेख्यविरोधे ग्रामनगरवृद्धश्रेणिप्रत्यय, ग्रामनगरवृद्धश्रेणिविरोधे दशवर्षभुक्तमन्यत्र राजविप्रस्वात्' (quoted in V R p 208)

747 Compare Br p 352 v 11 Nār p 157 v 9 laid down the general rule that a single man should not fix a boundary, but in v 10 he allowed even a single man to do so The wearing of red garments and placing earth on the head are prescribed even in the case of many by Manu VIII 256 and Yāj II 152

748 When there were no witnesses no sāmantas and the rest, no indications such as trees &c for setting the boundary, the king was to settle it according to his own lights Vide Manu VIII 265, Yāj II, 153 (latter half) Nār p 157 v 11

749 Compare Manu VIII 262, Yāj II 154, Nār p 157, v 13 'Kedara' is explained 'as a field with low embankments'

750 Of the many persons gathered together (for settling the dispute) if all do not give decisive testimony through fear or greed, each of them should be made to pay the highest amercement

751 In the case of (settling a boundary dispute by) walking over the boundary, in the ordeal by holy water, and in swearing by touching the feet (of idols, elders or brāhmanas) (the visitation of) divine disfavour or royal disfavour is to be expected within three fort nights, one fort night, a week respectively

752-3 One should not interfere with the base of the wall, a drain (or waterspout), a balcony, window, water-course and dwelling house (of another), one who obstructs these would be liable to fine These are not to be added (to one's house) after the first building of it (so as to cause obstruction or annoyance to another), one should not open a window (so as to command a view) in the interior of another's house or should not construct a water-course (that will drain off rain water) on another's house

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750 Vide v 741 above and note thereon Compare Manu VIII 257 (prescribing a fine of 200 panas for saksi) and v 263 (which prescribes middle amercement for false sāmantas), Yāj II 153 (who prescribes middle amercement i e 500 panas for sāmantas), Nār p. 155 v 7 The Mit explains that the highest fine is to be awarded if they purposely give false testimony

751 The idea is that a boundary settled by the evidence of samantas &c should not be regarded as final for three fortnights, if within that period the persons settling that boundary are visited by divine or royal displeasure then it is to be inferred that they decided falsely

752-753 Compare Br p. 354 vv 24-25 for similar provisions as to the protection of easements 'should not open a window '— this right of privacy is recognised even now by the courts as prevalent in Gujerat, Vide 2 Bom L R 454, 22 Bom L R 226

754 One should construct the mounds meant for (depositing) ordure urine and filthy water, a fire place and a pit at a distance of (at least) two cubits from the walls of other people (his neighbours)

755 That by which all men pass at all times without obstruction is called *catuṣpatha* (thoroughfare or road where four roads meet) and that is called rājamārga (king's way) by which all men can pass at certain times

756 One should not plant anything on that (thoroughfare or rājamārga) nor should obstruct it by (placing on it) anything A man who does not give precedence on the way to his *guru* preceptor, the king and the like is liable to fine

757 He who puts obstruction (by keeping carts &c) thereon or makes pits or plants trees or wilfully voids excrement thereon (i e on the public thoroughfare) should be fined a māṣa

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754 Aparārka reads cakram for vapram which is explained by V R as machine for pressing oil Compare Br p 354 v 26

755 Read aniruddhā for aniruddho Compare Br p 354 v 27 who calls catuṣpatha by the name saṁsarana

756 Yāj I 34 defines *guru* as one who performs all the saṁskāras of a man and imparts the Veda to him while an *ācārya* is one who performs only the thread ceremony and teaches the Veda About precedence on the road elaborate rules were laid down from ancient times Vide Āp Dh S II 5 11 5-9 Gautama VI 21 22 Manu II 138-139 (the precedence is to be given to one in a wheeled carriage one very old one diseased one carrying a burden woman a snātaka king bridegroom) Baud Dh S II 3 50 Vas 13 58-60 and Vanaparva 133 1 Most of these emphasize that a snātaka or a learned brāhmaṇa was to be given precedence over even the king and Vas 13 60 says that all should give precedence to a bride who is being taken in a procession

757 For māṣa vide verses 492 493 compare Manu IX 282 who prescribes a heavier fine (of two kārṣāpaṇas) in the case of one who voids ordure on the rājamārga but Manu IX 283 makes an exception in the case of old men diseased men pregnant women and children when they do the same, they are to be only reproved and not fined This verse is the same as Br p 354 v 28 Compare Kaut p 145 (text) for fines for throwing dust on the public road and for throwing ordure or urine on holy places, in water etc

758 59 He who defiles a tank, a garden and holy waters (or *ghats*) with ordure, should be made to remove the filth and should be fined the first amercement He who soils holy and purifying *tīrthas* (sacred waters or *ghats*) established (or constructed) by saintly persons should be fined the first amercement.

760–761 The fruits and flowers of those trees that grow on the boundary between two fields should be declared (by the king or judge) as joint between the owners of the two fields But where the branches of trees growing in one man's field spread over another man's field, that man should be known as the owner (of the trees together with the branches) in whose field the trees grow (are born).

762–763 He who, without the permission of the owner, does repairs to a house garden or tank, does not get (even) his expense (from the owner) when the owner comes (from abroad) if (he made the repairs) without informing the king; but if he informs (the king) and is directed by the king (to do the repairs) he recovers the expenses made thereon (from the owner)

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759 This refers to washing soiled clothes in holy water etc

760–761 If one owner alone takes all the fruits, he is liable to fine for taking half the fruits Compare Nār p 157–158 vv 13–14. It is possible to interpret 761 in another way When the branches of trees growing in one man's field take root in the field of another (as in the case of banyan and similar trees) the branches that become fresh stocks belong to him in whose field the branches take root But this construction is rather far fetched and restricted to a few special trees only Vide 44 Bom 605 about the right to cut over hanging trees and also 43 Bom. 164

762–763 Compare Yāj II 157 which applies a similar rule to the construction of a dike or water-course in another's land Nār (p. 159 vv 20–21) contains the same rule as Yāj about a dike

764 (If the owner of a field lying fallow) cannot return through inability (i e through want of means) the expenses incurred (by an husbandman) for (turning) fallow land (into arable land) the actual tiller (who makes the expenses) would get all the produce of the field minus an eighth part, for eight years the actual tiller (who spends money) will enjoy the produce (in this way) after that (period) he should hand over the field to the owner

765-767 *When the owner of a field is unable (to* cultivate it) or is dead or is not heard of if a stranger cultivates the field without being prevented by anybody, that man (the stranger) shall enjoy the produce of the field If the owner returns while the field is being tilled (by a stranger) he can get his field back after returning (to the stranger) all the money spent on turning the waste land (into arable) Till seven years have passed away (the stranger should enjoy the produce) with a deduction of the eighth part But when the eighth year is finished the owner would get back his field that has been enjoyed (for years by a stranger)

(Abuse and defamation)

768 That is said to be harshness of words (i e abuse) when one makes the sound "hum" (before another) coughs (before him) or imitates or utters (before another) whatever is censurable according to popular notions.

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764 Minus an eighth part – the eighth part goes to the owner as his due for his ownership

765-767 The first two are the same as Nār pp 159 160 vv 23-24 There would be conflict between 764 and 767 if samāpte is taken to mean 'is reached' 'If the owner returns' – this includes the son of the owner', where the owner is dead or unheard of. Nār p 160 v 26 says that a field which has not been cultivated for one year becomes half waste that which is not cultivated for three years becomes waste and that which is not cultivated for five years is no better than a forest.

768 The sound 'hum' is a sound of defiance,

769 That (abuse) is known to be threefold since it may be either *niṣṭhura*, *aślīla*, or *tīvra* It is known to be *niṣṭhura* when there is reproach (in the words used), *aślīla* is what is styled nyaṅga (indecent), the wise call that *tīvra* wherein there are charges (of acts) that make a man liable to expulsion from caste

770 Those are known as niṣṭhura words when one reproaches another with the possession of constituents that are (generally) termed undesirable (or bad) whether they actually exist in him or not

771 When a man through wrath reduces another to a humiliating position by words so far as his character, country family and the like are concerned, that is known to be *aślīla* speech

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769 'Reproach'—one may reproach a man's country (e g saying to a Gauḍa that Gauḍas are quarrelsome) caste (e g saying brāhmaṇas are very avaricious), family (e g members of the Viśvāmitra gotra are cruel) or one's profession or learning etc 'Nyaṅga means indecent' Charging a man with drinking liquor or the like is *tīvra*, as drinking was a mahāpātaka and would involve for a brāhmaṇa expulsion from caste This is the same as Nār p 207 v 2 Vide B p 355 vv 2 4 for the three kinds and for the statement that each of the three is in order worse than the preceding The Tāṇḍya Mahābrāhmaṇa (14 6 6) contains an example of reproach (ākrośa as to caste) ब्रह्म वै देवाः ... ब्राह्मण ... Vide Pāṇini VI, 3 21 and VIII 4 48 for आक्रोश

770 Even when a man is cripple or blind to call him so to his face is abuse if a man is not blind, to call him so is also abuse Vide Kaut p 193 (text) and Manu VIII 274 Compare exception one to sec 499 of the Indian Penal Code where the mere truth of an imputation does not exonerate a man without more

771 Aparārka and V. R read 'nyaṅgāvagūraṇam' which means 'treating a man with utter contempt by pointing to one's lowest limbs (private parts etc)

772 That speech is well known as *tivrā*, which connects a man with grave sins, which gives rise to friendship or hatred, or which charges a man (with acts that cause) loss of caste

773 That man is known to be abusive in speech (guilty of abuse) who through wrath enumerates faults in a man (who possesses the opposite virtues) or who declares a man who has no (good) qualities to be one who appreciates good qualities or who asks one man by an epithet applicable to another

774 That man is known to be guilty of abuse who recites for the sake of mere fault-finding faults in a man who (really) does not possess them or who points out the faults of one man while pretending to refer to another

775 (The king or judge) should prescribe half the fine (for him) who says what I said (in abuse) was said through ignorance, carelessness rivalry or familiarity, I shall not again say so

776-777 Where one man mentions another as *patita* (guilty of grave sin) in order that he may be avoided by others there he would not be guilty because he says so provided he establishes that sin (in the man whom he mentions as *patita*) Otherwise he would be as guilty (as the man whose faults he mentions) and if he falsely points out faults the fine (for him) is declared to be the highest

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772 The great sins were five according to Manu XI 54 and Yaj I 19 30 and Visnu 35 Vide Ap Dh S I 7 21 7 11 Gautama XXI 1 3 Baud Dh S II 1 40 41 for pataniyāni Visnu (chapter 38) deals with acts that cause loss of caste (जातिभ्रंश)

775 Compare Kaut p 193 ज्ञानप्रमादात्यतिस्वरीत्यर्भ

776—777 May be avoided —to have intercourse with a sinful man led to being equally guilty hence if one warned another about such a man there was no offence Compare exceptions 9 and 10 to section 499 of the Indian Penal Code Otherwise i e if he mentions the sins of another not for the purpose of warning others against contact with him Vide v 770 above and Nār p. 210 v 21

778 (The king) should with great concentration (application) establish the (guilt of the man) charged with abuse, the king should with great effort consider what he is informed of as false. Cutting of the tongue is (the proper) expiation (punishment) for those who are addicted to spreading false reports (about others).

(Assault and battery)

779 If (the king) is not able to find out the cause of assault by means of inference and the like then he should employ witnesses or ordeals.

780 That man who strikes another with a fierce weapon though he may himself have been harassed, is declared to be liable to be punished.

781 For cutting off the ear the lip the nose, the foot, the eye the tongue the penis the hand the punishment is the highest amercement and for causing injury (or wounding) to these, the middle amercement: this is the view of Bhrgu.

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778 The V R explains that the punishment of cutting the tongue is meant for offenders who are not brahmanas and it quotes a sutra of Harita about cutting of tongue. Compare आप ध सू II 10 27 14 [illegible]. Vide notes above on vv 479 480.

779 Aparārka explains 'employ ordeals which then stand in place of witnesses'. But this seems farfetched. Vide Yaj II 212 and Mit thereon. The oldest reference in Sanskrit literature to fines for assault is contained in the Taittirīya Samhitā II 6 10 2 'Him who strikes a brāhmana he shall fine a thousand, he who draws blood from a brāhmana shall not see the world of pitrs' etc.

780 Fierce weapon like a sword etc. One who is assaulted may exercise the right of private defence of body by striking in return but he must not exceed it. If slapped with the hand he cannot use a sword and cut off the man. Compare sections 100 and 101 of the Indian Penal Code. Vide Nār p 208 v 9 and Br p 337 v 4.

782 When man and beasts are struck with a v ew to cause them great pain the k ng should infl ct fine in proportion to the pain caused

783 The punishment for untouchables gamblers slaves for mlecchas for persistent sinners and for those who are born of unions in the reverse order of castes is beating (wh pping) and not in money

784 The fine should be ra sed to fourfold when a person s body is brought in contact with vomitted matter urine or ordure but (if thrown) on the m ddle of the body the fine would be s xfold and if on the head t is eightfold

785 When the hand is raised (to str ke a man of the same caste) the fine is twelve panas the fine is declared to be double of that when the hand strikes persons of one s own caste

786 Just as in abuse pun shments have been declared in accordance with the direct or inverse order of castes (of the gu lty person) so also in assaults pun shments should be awarded in the same manner

787 For injury to the organs of the body just as a fine should be prescribed by the king so also something must be g ven (by the offender) for appeas ng (the person injured) and also for sett ng up (for cur ng h m) as may be fixed by experts He (the offender) should pay (all) the expenses for setting the man up nclud ng the heal ng of the wound

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782 This is Manu VIII 286

783 Un ons etc vide Manu X 11 13 for offspr ng of un ons in the reverse order Compare Nār p 209 vv 11 12 and Br p 359 v 15

784 Fourfold —fourfold of ten panas Yāj II 213 prescr bes a f ne of ten panas when ashes or mud s thrown at another This f ne applies when those th ngs are thrown at any part of the body except the head and the trunk

785 Compare Yāj II 216

786 Compare Gautama XII 1

787 Compare Man III 287 Yāj. II 222 and Br p 358 v 1

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794 If the preceptor were to strike through anger a pupil (with something) other than a creeper, whereby great pain is caused (to the pupil), the father (may in such a case) make a complaint (against the teacher) for the pupil (his son)

(*Crimes of violence*)

795 That is declared to be *sahasa* which is an act done with force.

796 Robbing in the presence of guards, carrying away a thing by force—*sāhasa* is of this kind while (mere) theft is said to be concealing (i e depriving a man stealthily)

797 Where an offence coming under the name '*sāhasa*' has taken place without (leaving) indicatory signs (for fastening the guilt), the person (charged with *sāhasa*) must establish his innocence by oaths (and ordeals) This is the rule in all disputes

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794 Gautama (II 48 50) lays down that the teacher was to regulate the pupil without beating him but if unable to do so, he might use a thin rope or piece of bamboo and that if he beat the pupil he was to be punished by the king Compare Ap Dh S I 2 8 29 30 (who does not at all allow beating but only reproof, not giving food for some time &c)

795 Compare Nar p 203 v 1 Sahasa is derived by Narada from 'sahas' meaning 'force The term sāhasa is used to denote violent deeds or heinous offences of every sort L p 309 v 1 divides it into four kinds viz homicide, theft, assault on another's wife and paruṣya (of two kinds)

796 Compare Manu VIII 332 (where the word anvaya occurs), Yāj II 230 and Laut p 191 (text where also 'anvaya' occurs), 'anvaya' has been explained by the Mit as persons guarding the wealth, royal officials &c

797 Yāj (II, 290-281) lays down various circumstances and modes of ascertaining the offender in case of homicide vide Br p 364 vv 34-36 for the same Compare with this verse Br p. 364 vv 37-38

788 As regards those offenders for whom reproof by words and beating (whipping) were declared (to be the punishment), they should be made to pay (the price of) what was carried away or injured by them, and those who are indigent should make up (the loss) by doing work (for the man who is to be recompensed)

789 That man, who makes asses bullocks, buffaloes camels and the like carry burdens at an improper time or when they are tired or oppressed with thirst or hunger, should be punished with the first amercement

790 For killing deer and birds (belonging to a person) and for killing snakes, cats mongoos dog pigs (kept by men) the fine is two panas and twelve panas respectively

791 He who makes a young cow animals dedicated to Gods and a sacred bull carry burdens (or carts) should be fined the first amercement and the highest amercement if he kills them

792 On killing animals the (offender) should give (to the owner) another animal (of the same type) or its proper price, this is what Manu said

793 In the case of the destruction of all trees, the settled rule is that the fine must be in proportion to the usefulness of the (several kinds of) trees

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789 Compare Br p 309 v 16

792 Manu (VIII 296-298) lays down various fines for killing valuable animals like elephants horses and cows and less valuable animals like asses and goats &c and VIII 288 lays down that he who causes mischief to the belongings of a man should satisfy that man and pay a fine to the king

793 This is Manu VIII 285 Compare Viṣṇu V 55-59 who prescribes the highest amercement for cutting trees the fruits of which are useful the middle one for cutting off trees the flowers alone of which are useful, 100 kārṣāpanas for cutting creepers and bushes and one kārṣāpana for cutting grass and the offender had to pay compensation for the loss of the trees Yaj II 228 prescribes double the ordinary fine for cutting trees near temples, cemeteries, boundaries

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789 Compare Br p 339 v 16

792 Manu (VIII 296-298) lays down various fines for kill ing valuable animals like elephants horses and cows and less valuable animals like asses and goats &c and VIII 288 lays down that he who causes mischief to the belongings of a man should satisfy that man and pay a fine to the king

793 This is Manu VIII 285 Compare Visnu V 55-59 who prescribes the highest amercement for cutting trees the fruits of which are useful the middle one for cutting off trees the flowers alone of which are useful 100 karsapanas for cutting creepers and bushes and one karsapana for cutting grass and the offender had to pay compensation for the loss of the trees Yaj II 228 prescribes double the ordinary fine for cutting trees near temples cemeteries, boundaries

802–803. He who is about to use his sword poison or fire, he whose hand wields a drawn bow, who kills by the incantations contained in the Atharvaveda, who is a backbiter conveying to the king (information that would lead the king to harm a man), who assaults another's wife, who is bent upon finding out weak points in another (and striking him there)— all these and the like should be known as *ātatāyin*

804 These wicked men who rob a man of his fame and his character, who deprive (one) of *dharma* and *artha* (are said to be ātatāyins), he who not being charged (or accused) before proceeds to take life or rob (a man) of his all or to commit similar offences is to be known as ātatāyin.

805 One who kills animals having (sharp) claws, horned animals, animals with fangs or tusks, and elephants and horses and other animals when all these are ātatāyin, does not incur any blame.

802–803 'Incantations &c '–There are numerous hymns in the Atharvaveda which were employed against one's enemies e g I, 19, II 19, III 1 and 2 (which hymns are styled mohanani in the Kauśika sutra), VII 108 &c 'All these and the like'–this shows that the enumeration of ātatāyins here and in other texts is not exhaustive Vas III 16 mentions six kinds of ātatāyins (incendiary, poisoner, one with a raised weapon, one who deprives of all property, one who abducts another's wife or robs him of his field) The word 'ātatāyin is applied to Rudra in the Vājasaneya saṁhita 16 18 and in the Kathaka saṁhita 17 12 and probably means there 'one who always goes about with his bow stretched Vide Vas. III 17, 18 which declare that there is no blame in killing even a learned brāhmana when he is an ātatāyin, also Baud. Dh S I 10 12, Vishnu V 190–192, Manu VIII 350–51

804 'Ākṣarita' means 'accused or charged'. Vide Manu VIII 354–355 for use of that word

805 'Other animals' i e birds that strike with their beaks Wherever it is said that in killing an ātatāyin man or animal one incurs no blame, the meaning is that he is not liable to the punishment usually laid down for killing a man or animal

798 If several men violently beat one man to death he out of them who gives the fatal blow is declared to be the murderer

799 One who is the author of the murder by (actually) killing (the deceased) would be liable to be killed in various ways One should certainly kill without waiting for consideration a man coming with the intention of destroying (a life or a dam)

800 No blame attaches to him who kills wicked men that are ready (to kill another) but when they have desisted from their attempt (to kill) they should be captured and not killed.

801 If a man superior in austerities, Vedic study and birth becomes an ātatāyin (a desperate felon), killing him is not proper, killing is prescribed for a sinner of a lower class This is the view of Bhṛgu

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798 This means that he is to suffer the full punishment for murder and the rest are to be awarded lesser punishments, Compare Br p 363 v 31 for the same idea

799 Vide Yāj II 278, 283 (for various ways of carrying out the sentence of death) Br p 363 vv 29 30 17, 18

800 Compare sections 100 and 103 of the Indian Penal Code as to the right of private defence

801 All are agreed that an *ātatāyin* who is not a brāhmana may be killed outright without incurring any blame But the minds of all writers of digests were exercised over the question whether a brahmana ātatāyin could be killed without incurring sin, since there are conflicting texts on the point In this verse the reference in the first half is to a brāhmana who becomes an ātatāyin Manu IV 163 forbids the killing of one's teacher, parents, brāhmanas cows &c Kat probably refers to this verse of Manu when he speaks of Bhṛgu's view But there is another verse of Manu (VIII 350 which permits the killing of even a *guru* or a brāhmana when he comes as an ātatāyin So there is a conflict between two verses) of Manu Vide Mit. on Yāj II. 21 and my notes on V M pp 415-422 for an elaborate discussion of this topic

802–803 He who is about to use his sword poison or fire, he whose hand wields a drawn bow, who kills by the incantations contained in the Atharvaveda, who is a backbiter conveying to the king (information that would lead the king to harm a man), who assaults another's wife, who is bent upon finding out weak points in another (and striking him there)— all these and the like should be known as *ātatāyin*

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804 'Akṣārita' means 'accused or charged'. Vide Manu VIII 354 355 for use of that word

805 'Other animals i e birds that strike with their beaks Wherever it is said that in killing an ātatāyin man or animal one incurs no blame, the meaning is that he is not liable to the punishment usually laid down for killing a man or animal

806 Even a brāhmana deserves to be killed if he be guilty of causing abortion if he be a thief (of gold), or if he strikes a brāhmana woman with a sharp weapon, or if he kills an innocent woman

807 That man who causes (slight) injury, breakage or total destruction of (valuable) articles would be liable to the first amercement and the owner of the article is entitled to get (another similar) article (or its price)

808 He who steals breaks or burns the idols of Gods or who causes damage to temples should be punished with the first amercement

809 He who causes a breach in a rampart wall or pulls it down or shatters it or obstructs the flow of water (running in a water channel) should be awarded the first amercement

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806 There is a similar verse of Yāj (II 277 the Mitākṣarā interpretation of which differs from Viśvarūpa s who counts it as II 281)

807 This verse applies to mischief to valuable articles like crystal. Compare Manu IX 286 Vide Yāj II 223 for fines for mischief to articles of small value

808 Manu IX 285 prescribes a fine of 500 for breaking *pratimas* (which Kullūka explains were made of clay to and so were of an inferior kind) while Visnu V 174 prescribes the highest amercement for a breaker of images and Śankha-Likhita prescribe a fine of eight hundred for the same offence संक्रमध्वजसेतुनिपातनभङ्गेषु प्रतिमाभेदकाश्च (quoted in V R p 364) These various fines were due to the superiority and value or inferiority of the images

809 Vide Manu, IX, 289 who prescribes the punishment of banishment for one who causes a breach in the city wall.

(*Theft*)

810 Depriving a man of his wealth either clandestinely or openly and either by night or by day is known to be theft

811 (The king) should carefully examine property (alleged to be) stolen (to see) whether the article passed to the hands (of the alleged thief) from another's hand or whether he took it up without any intention (of stealing) when it lay on the ground (unclaimed) or whether he actually lifted it away as a thief

812 (Where a trader) deals (with his customers) by means of balances measures (of corn) and measures of capacity that are imitations or substitutes for true ones or not so should be fined the first amercement

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810 Compare Nār p 204 v 12 Āp Dh S I 9 25 11 quotes a verse which mentions theft, drinking incest and killing of a brahmana as very heavy sins and Āp Dh S I 9 25 4 11 prescribe various prāyaścittas (penances) for theft The Tai Saṁ IV 1 10 3 speaks of thieves (stealing secretly) taskaras (stealing openly) and malimlus (robbers and dacoits) Vide Vāj Saṁ XI 77-79 for the same Even in the Ṛgveda *taskaras* figure very often (vide I 191 5 X 4 6)

811 Compare Nār p 23 v 71 where he says that liars may have the appearance of honest men and *vice versa*

812 Compare Yaj II 244 Or not so i e that are not false imitations of true weights Manu (VIII 256) divides thieves (*taskaras*) into open (prakāśa) and clandestine (aprakāśa) and instances traders dealing in merchandise as open thieves and those who hide themselves in forests as clandestine ones Vide Manu VIII 258 260 Nār p 223 vv 1 5 for other examples of the two kinds This verse deals with traders who use false balances or measures or who use clods of earth as weights and deceive people or those who without using false or wrong weights &c deceive people Visnu V 122 prescribes highest amercement for forging balance or measure Compare Nār p 223 v 2 and Yaj II 244 Kaut p 103 (II 19) has a chapter on the superintendent of weights and measures Śaṅkha Likhita as quoted in V R p 298 say कूटतुलामान प्रतिमानव्यवहारे शारराङ्कच्छेदा वा

813-814 What is stolen from the houses in a village, (the king) should make the thief-catchers pay it (to the owners) He should make the guarding officers and wardens of the country (pay the price of stolen articles) if the thief be not found The property stolen in the village should be restored (or its value be paid) by the headman of the village, in case (the theft took place) in a forest the king must restore (stolen property or its price), but if it took place in a place other than a forest, then it must be restored by the officer appointed to catch thieves

815-817 Whatever is stolen from any person in one's kingdom must be restored by the king; the king should search for the thing lost and if found (after he pays the price to the owner) he should retain (the article) himself (The king) should restore with efforts the thing itself that is stolen by thieves in the absence of the thing the price (thereof should be paid by the king), otherwise the king incurs sin Even when the thief be caught, if the article stolen be not recovered from him, (the king) should restore the thing (himself) or he should make the thief pay according to his (the king's) pleasure

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813-814 Thief-catchers' – officers appointed to trace and catch thieves 'Ārakṣaka' is explained by V R as 'one appointed to guard a village' and the V C paraphrases it by a vernacular word 'kotāla (which seems to be the same as the modern Kotwal) 'Dikpāla' is paraphrased as 'de apati' In the inscription of Dharasena II of 'Valabhi' (Ind Ant vol 15 p 167) among several officers we have a 'cauroddharaṇika' in the inscription of Nārāyaṇpāla (Ind Ant vol 15 p 304) we have in a long list 'cauroddharaṇika 'kottapāla' (who is the same as modern 'kotwal) and 'viṣayapati, in Karhad plate of Kṛṣṇa III dated śake 880 (958 A D) we have 'rāṣṭrapati, viṣayapati', 'grāmakūṭa' etc, (Epi Ind vol IV p 278 283) Vivita means 'land reserved for grass, forest Compare Ap Dh S II 10 26 4-8 Gautama X 46-47 (for the king's liability to restore) Yāj II 271, Nār p. 225 v 17

815-817 Compare Viṣṇu III 65-66 with 816 The V R seems to explain the last half of 817 as 'the king should hand over the thief to the owner or should himself pay for the price of the thing stolen',

818-819 When thieves are being made to restore (articles alleged to be stolen) if there be a doubt as to the offence, the person who was robbed should be made to take oaths or he should establish (his allegation of stolen articles) by (the evidence of) his relatives Where the owner recovers a portion of his stolen property from a certain person, he (the owner) should recover the rest from the same man, if he (the owner) establishes (the loss of all the articles alleged)

820 Those who are traitors (or cause destruction of) *to their country and those who are highway robbers should* be deprived (by the king) of their all and should be ordered to be impaled on a stake

821 If those who are intent on (i e whose duty it is to) tracing thieves were to make one who is not the real thief to restore (or pay the price of) the thing stolen the persons so compelled would get back what they had to pay when (the real thief) was found and (the king) should make (the officers guilty of harassing the innocent man) pay (to the latter) double (of the price).

818-819 It is better to read 'mose' for 'doṣe' with V R and then the meaning will be if there be a doubt about what things were actually stolen, 'relatives'—this is only illustrative, it means that he should prove the articles stolen on the testimony of reliable witnesses, 'pratyaye kṛte' may also mean 'if the owner undergoes an ordeal or takes oath as to the articles stolen'. With 819 compare 319 above and Yāj II 20 and Viṣṇu VI 22

820 Compare Br p 151 v, 17 If thieves residing in one country cause loss in another country, the king was not to visit them with this punishment *Vide 637 above*

821 Compare Nār p 226 v 20

822 The king should cut off that limb of a robber with which he causes loss to another, so that he will not do so again

822 A If a person takes two cucumbers, or two melons, five mango s or five pomegranate fruits and a handful of oats or jujubes (from another's land or trees) he does not incure blame

823 The Mânavas (school of Manu) declare that those (thieves) who are caught (red handed) with booty should be at once banished (from the kingdom) but this (punishment) is not approved of by Gautamas (the school of Gautama) since it is censured owing to the destruction (or reduction) of people (in the country)

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822 It is possible to understand this verse to mean 'cut off that limb of a robber who causes injury to a similar limb of another (in committing a robbery) Compare Manu IX, 276-277 and VIII 334, Yâj II 274 Nar p 228 v 34

822 A. Compare Manu VIII 339 (taking grass for one's cows roots and flowers of forest plants or wood for sacrificial fire from another's land was no theft) and 341 (a traveller of the three higher castes short of food was allowed to take two sugarcanes and two roots from another's field) Vide Gautama XII 25 Âp I 10 28 3 Yaj II 166 and Nar p 219 v 37 Compare the maxim 'de minimis non curat lex' and sec 95 of the Indian Penal Code

823 Compare Manu IX 270 The V R and V C explain that these verses (823 825) apply to brâhmana offenders Manu VIII 380 prescribes banishment for a brâhmana offender, whatever his crime may be and forbids the sentence of death. Verse 823 prescribes banishment for a brahmana who is learned

824-825 The king, after catching (a brāhmana) thief and proclaiming (publicly) the signs of his guilt, whether he be caught with booty or not, provided his heinous crime is established as a fact should deprive him of all his wealth (The brāhmana thieves) who are very strong being guarded with iron fetters, fed on meagre food, should do (hard) labour for the king till their death this is the view of Kauśika

826 When a foreigner steals property from another country (and brings it into a country where he is sojourning), the king (of the latter country) should deprive him of that property and should let him off without punishment

827 Those who supply food to thieves those who give them fire and water, those who purchase (stolen) goods from them and receive (stolen) property from them and those who hide them – these are all declared to be liable to the same punishment (as the thieves themselves)

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824 Read 'pragrhya cinham etc 824 applies to brahmana possessed of wealth but not learned 825 applies to a brahmana offender who is neither learned nor rich. In the case of theft Gautama (XII 12-13) prescribed for the śudra offender a fine eight times as much as the price of the article stolen while a vaiśya kṣatriya and brāhmana were respectively liable to pay 16 32 64 times as much as the price Vide Manu VIII 337-338 for the same rule

827 Abettors of thieves and receivers of stolen property were dealt with like thieves from ancient times Compare Gautama XII 46-47, Āp Dh S I 9 25 5 and II 11 29 1 Manu, IX 271 and 278 (who employs the word bhaktadāyaka) Yāj. II 276 (who uses the words 'bhakta, agni', and udaka) Nār, p 2 5 vv 14-15 Compare sec 212 (harbouring an offender) and 411 (receiving stolen property) of the Indian Penal Code

828 Where one who is not learned officiates as a priest at a sacrifice and where one who is not himself firmly grounded (in any śastra) sets up as a propounder of it, the king should punish both with the punishment for a thief and should make them abide by the (proper) path

(*Adultery*)

829 Adultery is said to be ninefold viz when it is accompanied by the employment of a go between, being together at an improper time and place, falling on a woman's neck or seizing her hair or the border of her sari (or gown), seizing a woman by the ear, nose or hand, sitting or taking food with her on the same seat

830 When a man has forcibly had sexual intercourse with a woman capital punishment is to be inflicted in that case (by the king) since it is a violation of (good) conduct

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828 Yāj II 202 says that a brāhmaṇa who is devoid of learning and austerities should not accept a gift Vide also Manu III 168

829 Compare Manu VIII 357, Yāj II 283-284 Nār [illegible] 178 vv 65 67 and Br pp 365 366 vv 6-8 These nine (and others also) are the indications by which adultery is to be inferred

830 There is great difference of opinion as to the circumstances in which this verse applies The V M says it applies to the rape of a woman of the same caste by a kṣatriya or a person of an anuloma or pratiloma union. The Vir p. 504 says it applies to an Śūdra who is possessed of no merit while the Sm C says it applies to rape of a woman who is the wife of a man of no merit, The punishment for adultery and rape varied according to the caste of the male and the woman, was also different for men and women and also varied according as the woman was a maiden or w[illegible]

831 An unchaste woman who, being under the influence of lust herself amorously approaches a man should be released by the king's order after being proclaimed (as unchaste) in the presence of people

832-834 He who commences (a *sahasa*), who is a friend (or helper) who gives advice as to the method (in which a *sahasa* is to be carried out), who gives refuge or asylum (*to the offender*), or supplies weapons who gives food to wrongdoers, who incites (the offender) to fight

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831 If a woman was guilty of adultery with a person of a lower caste, she was to be devoured by dogs and the paramour was to be killed Vide Gautama 23 14-16 (this was the punishment in case no prāyaścitta was performed) and Manu VIII 371-372, Vasiṣṭha (XXI 1-5) prescribes that if a śudra commits adultery with a brāhmaṇa woman, he was to be thrown into fire, the woman was to be shaved made to sit naked on a dark donkey and sent to perish in the mountains and that any male of a lower caste guilty of adultery with a woman of higher caste was to be dealt with similarly, vide also Manu VIII. 359 Āp Dh S II 10 26 20 21 prescribed the penalty of cutting of the testicles and the penis for the male in adultery with a married woman but when the woman was a maiden the paramour was to be deprived of all his wealth A man of a higher caste guilty of adultery with a śudra married woman was to be banished while a sudra male guilty of adultery with a married woman of a higher caste was to be killed, when he was appointed to guard her Vide Āp Dh S II 20 27 8-9 and Gautama XII 2 3 Some writers somewhat softened these severe sentences Yāj II 286 prescribed for a male for adultery with a woman of the same caste highest amercement with woman of a lower caste the middle one with a woman if a higher caste death and cutting of the ear for the woman Compare Manu VIII 378 Vide v 487 above for lesser fine for women

832-834 It is better to read yadvopadeśakah with the Saras, read— vaktānu—, 'destruction &c — by poison &c, 'who connives —this applies to a man who though not able himself to

or who urges (the offender) for the destruction of the person (killed &c) who connives at (the commission of an offence) though not related (to the offender) who exposes the faults (of the person killed or harassed) who approves (of the offence) who though able does not forbid (or prevent) the commission of it—all these are (as good as) perpetrators of the deed (the offence) (The king) should prescribe punishment for these according to their ability and according to their offence

(The duties of husband and wife)

835 (A wife) never remaining apart from her husband, being disciplined (or well conducted) and devoted to her husband should serve (sacrificial) *fire with the desire of* securing freedom from widowhood and possession of happiness and love

836 A wife obtains all desired objects only by ministering to her husband When she comes back on this earth from heaven, she becomes the receptacle of all happiness

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prevent the offence does not inform others of it so that they may help in preventing it If we take ayukta to mean not appointed by the king as V 1 does then it would have to be connected with ' dosavakta Vide verse 82? above and compare Yaj II 231, Pr p 364 v 3? and Vp Dl S, II 11 ?9 [illegible]

835 ' Fire —there were three fires (gārhapatya āhavaniya, and dakṣiṇāgni) required in Vedic sacrifices and the gṛhya rites were performed in domestic fire Saubhāgya means ' the husband's affection and happiness Manu (IX 1-102) dilates upon this topic

836 Compare Manu V 165 166 ? Yaj I 87 The idea is that by devotion to her husband she accumulates merit and goes to heaven and that when that merit is exhausted she returns to the earth but is endowed with all happiness This is the doctrine of the Upanisads (vide Chandogya Up V 10 1-7 and Vedāntasūtra III 1 13)

837 That chaste woman who after her husband's death abides by the vow of celibacy being in her conduct like Arundhati, is honoured in the world of Brahma

(Partition of heritage)

838 That is declared to be a just (or lawful) division where the fathers and brothers divide the whole (common) property (whatever) in equal shares

839 Property of the grandfather is of equal ownership between both the father and his sons but the son is not entitled to ownership over what is acquired by the father himself

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837 Arundhati the wife of Vasistha is the highest type of conjugal fidelity and the star of Arundhati in the Great Bear is shown to the newly married bride Vide Āśvalāyana gṛhya I 7 22 Compare Viṣṇu 25 14 who prescribes brahmacarya or anvārohaṇa (being a sati) and also 25 17 Bṛ p 369 v 10 Manu V 159 160 The Sm C III p 597 quotes a verse of Angiras मृते भर्तरि या नारी समारोहेद्धुताशनम् । सारुन्धतीसमाचारा स्वर्गलोके महीयते ॥

838 It is better to read pitaraḥ for pitarah with the Vir The parents and their sons when coming to a partition of joint family property take each the same share Brothers means sons of the father with whom a partition is made Compare Bṛ p 370 v 2 When the sons came to a partition during the father's life time or after his death the mother was entitled to a share equal to that of a son Vide Yāj II 115 Nar p 192 v 12

839 This verse embodies the central conception of the Mitākṣarā school as to the equal ownership of father and sons in ancestral property Compare Yāj II 121 Viṣṇu 17 2 Bṛ p 370 v 3 The Mit on Yāj II 121 explains that verses like Yāj II 114 Nar p 191 v 12 Bṛ p 370 v 4 (which allow the father to make an unequal distribution among his sons) refer to the father's self acquired property Viṣṇu 17 1 explicitly states this The text of Bṛ p 180 v 1 is quoted in I L R 10 Bom 528 at p 547 and Yāj II 114 is quoted by Telang J in I L R 16 Bom at p. 43 and spoken of as a general and notorious principle

840 The grandfather's property, the father's property and whatever else is acquired by themselves (with joint efforts)—all these are divided when there is a partition between coheirs (or coparceners)

841 A house fields, cattle and similar visible (effects or estate) should be divided, if there is a suspicion that (certain joint property) is concealed, an ordeal is prescribed (in that case)

842 Household utensils, beasts of burden, milch cattle, ornaments and slaves—these visible effects are divided Bhrgu declared the kośa (ordeal) when (there was a doubt whether certain joint property) was concealed

843 In a partition while the father is living, the father should not make a distinction between one son (and other

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840 'Whatever else is acquired'—this refers to property acquired with the help of ancestral or joint property since what is acquired by a coheir without using joint funds would be his self acquisition This verse is quoted in *Ponappa Pillai v Pappuvayyangar* 4 Mad 1, at p 49

841 Vide verse 415 above which prescribes the kośa ordeal in disputes about partition

842 Aparārka says that the kośa ordeal is only illustrative but the words of Kāt in 415 appear to forbid other ordeals Compare Br गृहोपस्करवाहाश्वदोह्याभरणकर्मिण । दृश्यमाना विभज्यन्ते गूढे कोशो विधीयते ॥ (quoted in Sm C III p 636)

843 'Should not make a distinction'—by giving a larger share to one son as compared to the shares given to other sons 'suddenly'—through wrath against other sons or extreme affection for one son, 'without cause'—if there be no causes for disinheriting him such as 'pātitya' &c Kaut (p 161 text) has these very words 'जीवद्विभागे पिता नैकं विशेषयेत । न चैकमकारणात्तमजेत ।' Even the Ṛgveda

sons) nor should he suddenly deprive a son of his share without any cause

844 Partition is ordained among (coparceners) who have attained (years of) understanding of worldly affairs and in the case of men they attain understanding of affairs at the sixteenth year

845 The property (share in the joint estate) of those who have not attained years of discretion, being made free from expenses should be kept (by the other coheirs) with their (the minors) relatives and friends the same should be done (to the shares) of those who have gone abroad

845 A All (coheirs) should protect the share of the (coheir) who has gone abroad and his share of the ancestral

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(I. 70 10) appears to refer to the practice of the division of property during the lifetime of the father (when old). Vide Baud Dh S II. 2 8 and Yāj II 114 Śankha-Likhita ('जीवति वा पितरि रिक्थविभागोऽनुमतः प्रकामं वा मिथो वा धर्मेण ' quoted in V R p 463) Nār p 191 v 4 for distribution during fathers lifetime

844 Compare Kaut p 161 (text. अप्राप्तव्यवहाराणां विभाग and p 154 'द्वादशवर्षा स्त्री प्राप्तव्यवहारा भवति षोडशवर्षः पुमान्) Nār p 51 v 35 says that a man is a minor till he attains the16th year There is a controversy among commentators whether minority ended at the beginning of the 16th year or at the end Many hold the former view but the V R (p 599) holds that minority ends with the end of the 16th year

845 Compare Kaut p 161 (अप्राप्तव्यवहाराणां देयविशुद्धं मातृबन्धुषु ग्रामवृद्धेषु वा स्थापयेयुर्व्यवहारप्रापणात् प्रोषितस्य वा) Gautama X. 48 Baud Dh. S II 2, 37 (तेषामप्राप्तव्यवहाराणाम् अंशान् सोपचयान् सुगुप्तान् निदध्युरा व्यवहारप्रापणात्) Manu VIII 27 Visnu III 65 and Vas 16 7-8 cast upon the king the duty of protecting minors estate 'free from expenses i. e after deducting all the debts and charges due from the family for which the minor members share would be liable

845 A. According to Nārada (p 51 v 35) pogaṇḍa means a minor who has not attained the 16th year Manu VIII 148 appears to use it in the same sense But Amarasimha explains it as

estate should be guarded by the relatives, if his sons are minor or if he be dead After him his minor (sons) should partition the wealth according to their shares

846 All persons entitled to the ancestral wealth must pay at the time of partition all the debts incurred by the brother, paternal uncle or mother for the purpose of the family

847 Those debts should be paid to the creditor which are established by proof (by the creditor) after a dispute is raised about them, and (the king or judge) should not cause debts (contracted by one) to be paid (by the other members) otherwise

848 What is (promised by the father) for a religious and chritable purpose, what is promised (by the father) out of affection and that debt (of the father) which the father has specially enjoined (upon sons to pay) — these debts when found should be divided by the sons, there can be no payment out of the paternal wealth (of any other debt)

'one who has a crippled limb or one who is devoid of a limb' Kāt follows Nārada and Manu 'His minor sons'—we have to understand that they should do so after attaining majority

846 Compare Yāj II 117 Nār p 197 v 32

847 'Those debts' —i e those contracted by the brother paternal uncle &c

848 This verse is variously explained Most writers connect 'when found' with debt, but the V M takes it separately meaning visible wealth and debts should be divided' 'Svaniyojitam' is explained by V M as what is incurred by the father himself' Vide verse 566 above As to gift through affection, vide Yāj II 123 (first half)

849–50 In a partition with coparceners one should discharge a debt that was incurred by the father a debt that was incurred for paying off the fathers debt ones own debt incurred by another (for ones family) and a debt incurred by ones self. After paying off (the fathers) debt and (his) gifts through affection the rest (of the property) should be divided

851 The father gets two shares or half from the wealth acquired by the son when the father is dead the mother also gets a share equal to that of a son

852 The wise should so arrange the extent of shares (among dividing heirs) that the wealth obtained by partition may more and more be employed for purposes of sacrifice

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849 50 It is better to read sambaddham for samsuddham Compare Nar p 197 v 32 Manu VIII 166 These two verses are quoted in *Ponappa Pillai v Pappuvayyangar* 4 Mad 1 at p 49

851 The first half is interpreted according to the Dāyabhāga, which gives two interpretations If the son acquires wealth with the help of ancestral funds then the father gets half of it the son who earned it gets two shares and the other sons one share each if the son acquired wealth without the help of ancestral funds then the father and the son who acquires each get two shares and the other sons get no share The other interpretation is that in wealth acquired by the son the father gets half if the father is possessed of learning &c and if he is not so he gets two shares The Vir pp 566 567 severely criticises the Dayabhaga and interprets it to mean the father because he acquires the wealth and begets the son should take two shares (in property acquired by himself) or half of it Compare Nār p 191 v 12 with this verse V de Br p 3 0 v 5 for two shares for the father Compare Yaj II 123 (latter half) and Visnu 18 34 with the latter half

853 A single (coparcener) has not in every day life the absolute power to make even a partition of ancestral estate. One can only enjoy (the ancestral estate), but one cannot (by himself) make a gift or sale of it

854 Coheirs whether they be separated or unseparated, are equal as to immoveable property, for a single one (out of them) has no power to make a gift, mortgage or sale

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852 853 In I L R 33 All 118 at p 121 it was said that the text of Yāj giving a share to the mother implies an actual division of the family property and that a mere severance of interests did not confer on the mother a right to a share equal to that of a son Vide I L R 50 All 532 at p 534 The primary idea is that wealth is intended for performing sacrifices Therefore a larger share should be given to that one among brothers who by his learning and conduct is expected to spend much of his share on sacrifices Vide the verse 'यज्ञार्थं विहितं वित्तं तस्मात्तद्विनियोजयेत् ॥ स्थानेषु धर्मजुष्टेषु न स्त्रीमूर्खविधर्मिषु ॥' The Mit (on Yaj II 135) however does not accept that this verse represents the correct position Kat seems to favour the views contained in that verse Vide Br p 371 v 10 for a similar proposition 'The absolute power estate —this means that a single coparcener cannot without the consent of the others make a division by metes and bounds of ancestral estate

854 This verse is variously explained The Mit (on Yaj II 114) says that in a state of union a single member cannot enter into a transaction of sale &c without the consent of the others but that after partition the member can sell the property that has fallen to his share but the consent of the other coheirs should be taken for dispelling all doubts about their having been separated and for effecting transactions with ease The Sm C and Madanaratna say that where immoveable property has not been divided but only movables were divided and it was agreed that only the produce of the immovable property was to be divided, the immovable property cannot be sold without the consent of the others The Dayabhāga explains that this verse prohibiting alienation even after partition simply indicates that if a vicious man sells his property so as to ruin his family he incurs sin but that this verse does not mean that the sale (of the property fallen to his share) is invalid Vide Br p 384 v 93 for practically the same verse

855-856 If an undivided younger brother dies (the other brothers) should make his son take a share of the inheritance if he has not obtained from his grandfather a livelihood (i e a share), he should obtain from his uncle or his uncle s son the share which his father would have got That very share would be the legal share of all the brothers (who are sons of the man dying) Or even a son (of that son of the brother dying) would obtain (that share), beyond (this last) there is a cessation (of succession to that share)

857 When a son of the body is born, (other kinds of) sons take only a fourth share if of the same caste (as

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855-856 'Younger brother'—this is only illustrative and applies to even an elder brother, 'the share which his father &c'—that is, the division is to be through the father, as laid down by Yāj II, 120 (latter half), 'beyond this last there is cessation' i e the 4th in descent from the propositus would not get a share, if there are sons, grand-sons or great-grandsons of the propositus alive Vide for full explanation my notes to V M pp 147-149 Suppose A has two undivided sons B and C B dies undivided leaving a son D and then A dies This verse declares that D though alone will get on a partition his father s half share from C or C s sons even if they are many If D dies without claiming a partition and leaves a son E, the latter will get onehalf of the property of A If B, D, E all die in the life-time of A without claiming partition and E leaves a son F and C or his sons or grandsons are living then F will not be entitled to claim a share from C When A dies F is the fourth from the propositus A These verses are quoted in *Debi Persl ad v Thakur Dial* I L R 1 All 105 (F B) at p 111 Vide *Moro v Ganesh* 10 Bom H C R 444 for a lucid exposition of these verses and Devala s text (at pp 461, 466-467)

857 Yāj II 128-132 enumerates 12 sons, aurasa, putrikā putra, kṣetraja gūḍhaja, kānīna paunarbhava, dattaka, krīta kṛtrima, svayam-datta, sahodhaja, and apaviddha Manu IX,

the owners) but (other kinds of) sons who are not of the same caste (as the owner) are entitled to receive only food and raiment.

858 A fourth share of the family estate is desired for daughters who have not been given away in marriage (at the time of partition), while three parts (of the family estate) go to the sons, but if the (family) property be small they (sons and unmarried daughters) share equally

859 When a person begets a fruit (a son) with the consent of the owner of the field (husband of the wife) both

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858 Compare Manu IX 118 and Yāj II 124 (both of whom prescribe a fourth share) The fourth share is not one-fourth of the whole estate but, as the Mit explains, one-fourth of what the unmarried daughter would have got if she had been a son of the same class as herself Vide my notes to V M pp 157-158 for further explanation The Dayabhāga, V R and V C explain that ¼th is only illustrative and means 'she is entitled to a proper provision for her marriage expenses Compare Viṣṇu 15 31 'असूता स्ववित्तानुरूपेण संस्कार कुर्यात्', Kaut p 161 'कन्याभ्यश्च प्रदानिकं' and Śankha — Likhita 'विभज्यमाने दायेस्य स्वकन्यालङ्कार वैवाहिक स्त्रीधन च कन्या लभते' (quoted in मि ट p 495) Vide *Bhagavati Shukul v Ram Jatan* I L R 45 All 297 (at p 299) where it was held that 'the quarter share in the Sanskrit texts means as much money as will suffice for marriage expenses, that the provision of a dowry for a daughter was a legal necessity and that where the daughter was a cripple and blind and all the property was worth Rs 500 an alienation of the whole of it by the widowed mother for raising a dowry for the daughter was justifiable

859 This verse refers to a topic that very much exercised the minds of ancient sages In ancient times there was the practice of *niyoga*, whereby a son was begotten under certain circumstances by one man on the wife of another (e g vide Gautama 18 4-8 and Manu IX 59-62) Just as a fruit grows on land (kṣetra) and seed (bīja) is required for the production of fruit, so the wife is compared to the land (and spoken of as kṣetra) The question arose to whom the son produced under niyoga belonged Manu (IX 52-53) seems to suggest that when there was an agreement that the son produced

the owners) but (other kinds of) sons who are not of the same caste (as the owner) are entitled to receive only food and raiment.

158-160 enumerats twelve sons, 11 of which are the same as those of Yāj , but the śaudra(son of a brāhmana from a śūdra wife) mentioned by Manu as 12th is omitted by Yāj and the putrikāputra enumerated by Yāj is separately mentioned by Manu (IX 136) It is therefore that Br (p 375 v 33) says that Manu enumerated thirteen sons. Manu says that six out of the twelve (viz aurasa kṣetraja, datta kṛtrima gudhotpanna and apaviddha) are partakers of wealth and also bāndhavas (i e they can offer pinda &c.) while the other six are bāndhavas but not dāyādas (i e they do not take the estate) Vide Visnu 15 1-28 for 12 sons and Gautama 28 30-31 The Mit explains that ' of the same caste means that they must be sons of the dattaka, or kṣetraja sort or the like and the words ' not of the same caste mean sons who are kānīna, gūdhaja sahodha, and paunarbhava Vas 15 9 says that if after a son is adopted, a son of the body is born to the adopter, the adopted son takes a fourth share Gautama 28 32 says generally 'चतुर्थांशिन औरसानुपमाद' Kant (p 164) has a passage closely agreeing with Kāt. ' औरस पुत्र सवर्णस्तृतीयांशहरा , असवर्णा ग्रासाच्छादनभागिन' The Kalpataru Dāyabhāga and V C read 'तृतीयांशहरा ' in the text of Kāt. In Bengal the adopted son takes ⅓ of the estate in such circumstances and in Benares ¼ In I L. R 43 Mad 398 (at p 402) the texts of Kāt , Vas. and Baudhāyana (S B E, vol 14 p 336) about the ¼ share were referred to and it was held that in a suit by the father and aurasa son for partition against a son previously adopted the adopted son takes ⅕th of the estate and the father and aurasa son take one fourth each This means that the ¼th share is not ¼th of the whole but ¼th of what the aurasa son takes. In I, L. R. 17 Bom 100 and 43 Bom 672 it was held that this rule about shares applied even to śūdras In *Vagavdas v Rachoo* I. R 43 I A 56 (= 40 Bom. 270) it was held that this rule applies only to the adopted son and subsequently born aurasa son of the same father and not to the aurasa son of one brother and the adopted son of another brother when they are joint. In I R 48 I A. p. 280 (= 44 Mad 656) it was held that in Madras and Bengal the adopted and subsequently born aurasa sons of śūdras shared equally

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of them are entitled to the fruit (the son), since a fruit is not produced in the absence of one (of the two)

860 A son born of a woman who leaves an impotent husband and secures another husband is called *paunarbhava* and he clearly belongs to the begetter

861 That man is said to be impotent whose urine has no froth whose faeces (when voided) in water sink (to the bottom) and whose generative organ is devoid of erection and semen

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under *niyoga* was to belong to both the husband of the woman and the begetter, he belonged to both and if there was no agreement then he belonged to the husband of the woman (the kṣetrika) Āpastamba (Dh S II 6 13 5-6) relying on a brāhmana passage and certain Vedic gāthās held that the son belonged to the begetter Vas 17 63 seems to refer to the same view Gautama 18 9 14 refer to several views on the point Though the Manusmṛti (IX 64 66) severely condemns *niyoga* Yāj I 68 69 Nār p 181 vv 80-84, Kaut p 162 as also Gautama (18 4 8) Vas 17 56 57 and 66 appear to have countenanced it. Br (p 369 vv 12-13) condemns it Śaṅkha-Likhita (as quoted in V R pp 581 and 557, first state the view that the son belongs to the husband of the woman and then state the views of Āṅgirasa and Uśanas 'नियत क्षेत्रिणमपत्यमिति च वेदवाद्' &c and 'कारकर्तुरपत्यमित्याङ्गिरसो नातिशात्रवयोरनुमत तद् बीज प्रकीयते तद् द्विधा स्वस्यामित्युशना ।' Vide Nār p 176 v 58 and Baud Dh S II 2 17 (S B E vol 14 p 226) for the same idea as in this verse

860 'Paunarbhava — born of a punarbhū (woman twice married) Nār (pp 174 175 vv 45-46) speaks of three kinds of *punarabhūs*. Compare Manu IX. 175 (for *paunarbhava*) and 176 Yāj II 130 Viṣṇu 15 7 9 Vas 17 20

861 Vide Nār pp 166-168 for the signs of a potent man and for 14 kinds of impotent men Compare with this verse Nār p 167 v 10 and Kaut p 193 'क्लीबभावे स्त्रियः मूत्रफेनमप्सु विष्ठानिमज्जनं च' which means 'as to impotency women froth of urine and the sinking of the faeces in water (are the means of judging)

862 The son of a woman married out of her order, one who is born of a husband of the same *gotra* (as that in which the woman was born) and one who is an apostate from the order of ascetics do not obtain the inheritance.

863 64 But the son of a woman married in the wrong order takes the ancestral wealth, when he is of the same class as his father and the son of a woman who is not of the

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862 The word akramodhāsutah is interpreted in two ways Most interpret it as follows a person was first t marry a girl of his own caste but he could marry a girl of any of the other caste lower than his own V de Manu III 12 If a brāhmana married a girl of the kṣatriya caste first and then brahmana girl both became *akramodha* (married in the wrong order) In such a case the son of the kṣatriya girl from the brāhmana would not be entitled to a share of his fathers estate but the son of the brahmana wife would take the wealth as said in the next verse The other interpretation given by the Vyavahāramayukha is when a younger brother (or sister) was married before an elder brother (or sister), the former was called *parivettr* and the latter *parivitta* or *parivinna* and such a procedure was called *parivedana* which was declared very sinful Vide Manu III 1,2 and B ud Dh S II 1 39 This verse declares according to V M that the son of a younger sister married before her elder sister and the son of an elder sister married after a younger one were both excluded from inheritance to their fathers respectively A *sagotra* marriage was forbidden but if it took place the son of such a marriage would not take the inheritance The Dāyabhāga takes sag tra jayate ' to refer to the *Kṣetraja* son

863-864 The son of a woman who is not of the same caste etc —If a brāhmana marri d a brāhmana girl and also a kṣatriya girl the son born of both will take the estate of their brāhmana father but not equally The son of the brahmana woman would take four shares of the estate while the son of the kṣatriya woman three and so on Vide Manu IX 153 154 and Yaj II 125 for the shares Son of the woman reverse order —this refers to the offspring of pratiloma unions (such as kṣatriya or vaiśya man

same class with her husband (but is of a lower class) and is married in the proper order (takes the wealth of his father) But the son of a woman who is married in the reverse order does not take the ancestral estate, the approved view (of ancient writers) is that he should be given food and raiment till his death by his kinsmen

865 On failure of kinsmen he would obtain (inherit) the estate of his father The kinsmen are not to be made to pay (food and raiment to the son of a pratiloma union) when the kinsmen have taken no wealth of his father

(Property not liable to partition)

866 All that (ancestral) wealth which was taken away by force from the family or was lost (to the family) and which was recovered by the father himself by his own efforts, the father is not liable to share with the sons at the time of partition

867 That wealth is said to be gained by learning

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by Yāj I 91 and parasava by Manu (IX 178) and also śaudra (Manu IX 160) All the sons except the *aurasa* are declared by Manu (IX 180) to be substitutes for the *aurasa* i e as secondary and the Mayūkha distinctly says that all secondary sons except dattaka are forbidden in the present age Hence the son of a brahmana from a sudra woman cannot be recognised as a son according to the Mayukha whatever the views deducible from ancient smrtis may be Doctrines deducible from ancient sages (such as that of niyoga unequal distribution of ancestral property among sons) are not accepted by nibandhakaras as applicable to the present age The same rule should have been held applicable in the present case

866 Compare Manu IX 209 Yāj II 119 Visnu 18 43 and Br p 371 v 12 In 5 Mad H C R 150 it was held that the rule was intended to apply strictly to hereditary property of which the members of the family had been violently or wrongfully dispossessed or adversely kept out of possession for a length of time

867 This verse defines vidyadhana which has been a fruitful source of litigation in modern times Verses 867 873 elucidate what is meant by *vidyadhana* Compare Manu IX 206, Yāj II 119 Visnu 18 42 Gautama 28 26 Nar p 191 v 11 This verse is quoted in *[illegible]* All 05 (at p 312) where it is said that the definition is not exhaustive but only illustrative

which is acquired by means of learning received from another while subsisting on food furnished by a stranger

868 When a matter (a doubt or difficult point) has been placed (before an assembly of pandits) with a wager, whatever is gained by (showing one's superior) learning is known as vidyadhana (gains of learning), it is not divided at a partition

869-70 What is acquired from a pupil (i e by the profession of teaching) by performing the work of a priest at a sacrifice by propounding a question, by solving a doubtful point by exhibiting one's knowledge, by disputation with a

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and it was held that, where a person learnt some astrology from his father and left his father at 14 and then made a fortune it was his self acquisition The following leading cases lay down the limits within which gains of learning may not be liable to partition 2 Mad H. C R. 56 6 Bom H R p 1 L. R 4 I A 109 15 Bom. 32, 45 Cal 660 (=L R 45 I A 41), L R 46 I A 167 (=2 Lahore 40) But now the Legislature has intervened and by Act XXX of 1930 all doubts have been removed and it is laid down that a Hindu member of a joint family who receives education at the expense of the family can keep his earnings as his self acquisition, however high the expenditure may be

868 For another meaning of upanyaste vide my notes on V M p 219

869-870 By propounding a question' i e when a solution is given to a query made by a sinner &c about the prāyaścitta for a sin, exhibiting one's knowledge — i e when there is a knotty śāstric point or when the question is which is to be honoured first among the learned [illegible] The contrast is between vidyā (purely literary studies) and śilpa (arts and crafts) Whoever acquires an art by his own exertion

rival, what is gained by deep learning — all this is declared to be *vidyadhana* and it is not divided at a partition

The same is the rule even in the case of artisans and whatever is obtained (as a reward &c) over and above the proper price of an article (becomes the self acquisition of that member who sells it)

871 After vanquishing an adversary in a wager whatever is obtained by (superior) knowledge should be known as *vidyadhana* (gains of learning) and is not liable to be partitioned This is the view of Brhaspati

872 What is gained by an assertion of one's learning what is obtained from a pupil (i e by teaching) and what is acquired on the analogy of priests officiating at a sacrifice —all these are known as vidyadhana, this is the view of Bhrgu

873 What is obtained by the superiority of one s learning and from a sacrificer (by officiating as a priest for him) and from a pupil (by teaching him) —all this is declared to be *vidyadhana* acquisitions other than these are common (i e jointly owned) with others

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and not at joint family expense keeps his earnings as his self acquisition 'Whatever is obtained &c — If a member of a joint family is entrusted with the sale of an article belonging to the joint family and by his skill he sells it for a price far in excess of its real value or he gets a reward from the purchaser the excess or reward is his separate property

871 'Superior knowledge — of dice or gambling

872 'By an assertion &c — by saying 'I alone of the assembled people know this science and proving this to be true 'rtvin nyāya is explained by the Sm C and V M as upadarśana (supervising a sacrifice &c) Vide Manu VIII 206 210 about the rewards of officiating priests at sacrifices

874 Bṛhaspati declares that the wealth acquired by valour (in battle) by brothers who were instructed in the family or by the father is liable to be divided (among all the members of the family)

875 A learned man should never give to his unlearned kinsmen (brothers &c) anything from his gains of learning; but a learned man should give his gains of learning to those (of his kinsmen) who are equally learned or more learned than himself

876 Where a reward was given by the king (or master) being pleased by the actions of a person who putting his own life in danger did an act of strength (or valour) whatever is thus obtained is the wealth due to valour

877 What is acquired by valour and by learning and what is known as wealth of the wife—all this is not liable to be partitioned by cosharers at the time of partition.

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874 'Instructed in the family' i e instructed at the expense of joint family property or by the other members of the family such as the grand father, uncle &c In all cases of partition of *vidya dhana* the acquirer got two shares as laid down by Vas 17 51

875 The first half contains a prohibition against a learned man giving a portion of his self acquired *vidyādhana* to his brothers who are not learned Compare Gautama 28 28 Nār p 191 v 11 says that out of wealth acquired by learning, not imparted at family expense one need not give a share of it to his unlearned coheirs if he is unwilling to do so but impliedly allows him to do so if he so wills

876 This is Katyāyana's definition of 'śauryadhana', which he distinguishes from 'dhvajāhṛta' (v 878) Other writers like Nārada (p 190 v 6) and Bṛ (p 381 v 78) put both under 'śauryadhana'

877 'Wealth of the wife — *strīdhana* or *bhāryadhana* is wealth which a man gets at the time of being married Bṛ (p 381 v. 78) and Nār (190 v 6) speak of only 'bhāryādhana',

878 What is called 'dhvajāhṛta' is declared to be impartible That is said to be 'dhvajāhṛta which is recovered from a battle after putting one's life in danger of death for the king (or master) and after putting to flight the army of the adversary.

879 What is obtained at the time of marriage with a maiden of the same caste is known as kanyāgata' (coming with a maiden) wealth it is declared to be pure and as promoting prosperity.

880 That is known as 'vaivāhika (nuptial) which comes with the wife, all wealth of this sort should be known as the means of (performing) dharma (religious duties)

881 Whatever is given at the time of marriage as meant for the bridegroom, all that is the wealth of the maiden and it cannot be partitioned by the cosharers

882-883 Money that is entered in a document, whatever is intended (or set apart) for a religious purpose, water, slaves, a *nibandha* that descends hereditarily, clothes that

879-880 Manu IX 206 and Yaj II 118 speak of 'vaivāhika' or 'audvahika' as impartible That is the same as the 'bhāryādhana of Nār and Br But Kat who has a great *penchant* for distinctions and definitions distinguishes between 'kanyagata' and '*vaivahika* both of which are really 'bhāryadhana The V M explains 'kanyagata' differently It is that wealth which a man obtains at the time of giving his daughter in marriage in the *arsa* form But this is far fetched, Vide Yāj I. 59 and Manu III. 29 for ārṣa *form*

881 'Wealth of the maiden i e wealth that may be called 'kanyāgata' as in 879

882 'Money document' —this means 'bond debts not yet recovered' It is possible to take the first half of 882 as one clause (as the V M does) the meaning being 'what is entered in a document as set apart for religious purposes' 'Nibandhah'—This is a technical word It means 'a pension, a periodical payment in cash or kind or an allowance granted permanently by a king a corporation or a village to a person, temple or a family'. The Mit. on

are worn on the body (every day) ornaments and whatever else that is not fit to be divided these should be so employed by coharers that they may be enjoyed (in common by all of them) at the proper time

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Yaj II 121 gives as examples 'so many betel leaves from each bundle of betel leaves or so many betelnuts from each betelnut-load' (to be paid to a temple or brahmans or other person) The Sm C gives as an example the agreement made by traders to deliver to a temple or brahmana every year or every month a fixed sum 'Nibandha' is paraphrased as 'vrtti' by V M The word 'nibandha' is rendered as 'corrody' by Colebrooke in his Digest, but as observed by the Privy council in *Fatkesangji v Desai Kallianrayi* L R I I, A p. 31 at p 51 it is not a very happy translation Vide *Collector of Thana v Krishnanath* I, L. R 5 Bom 322 at pp 331-32 (for a discussion of what is included in a *nibandha*), *Collector of Thana v Hari Sitaram* I L R 6 Bom 546 (F B) at pp 555-559, *Lakshmandas v Manohar* I L R 10 Bom 149, *Jatindra Mohan v Ghanashyam* I L R 50 Cal 266 at p 271 (where an annuity was held to be a *nibandha* and various definitions of *nibandha* are given) 'Water'—Rights to water and wells belonging to a joint Hindu family are ordinarily impartible and so the burden of proving that a well was exclusively assigned to one member at a partition is on him who alleges it, vide I L R 36 Bom 275 and 379 'Clothes that are worn'—this means 'that clothes that are highly valuable and are worn only on festive occasions are to be divided' according to price Vide Br p 382 v 79-81 where he finds fault with Manu (IX 219) and others for declaring that clothes and other things are impartible and suggests that they may be sold and the price divided &c These verses of Kat are quoted in I L R 30 Mad 340 at p 344 and *Khushalchand v Mahadevgiri* (1875) P J p 276 refers to Kāt and says that any portion once assigned for purposes of religion shall be excepted from partition so as to be kept available for its intended object Compare Gautama 28 44-45, Manu IX 219 and 200, Visnu 18 44, Śaṅkha-Likhita 'न वस्तुविभागो नादकपात्रालङ्कारापयुक्तवस्त्र वासभाम्, अपां प्रचारपत्मनामविभागश्चेति प्रजापति' quoted in V R p. 503) Kaut p 161 (उदकवात्राण्यपि निाध्किब ना विभजेयुर्निस्धाचार्यां)

884 A pasture for cattle way, clothes (every day) worn on the body money lent and what is set apart for religious purposes should not be divided this is the view of Brhaspati

884 A. Whatever is declared as the rule of law in a particular country caste group or village (the king) should prescribe partition of heritage in accordance with that (This is the view of) Bhrgu

(Fresh partition as to concealed ancestral estate)

885 If (joint) wealth was concealed but is afterwards found the sons should divide it equally with their brothers in the absence (i e death) of the father

886 Whatever was concealed from each other (by the cosharers) and what was divided in an unjust manner and whatever was recovered after (partition) should be partitioned in equal shares This is the view of Bhrgu

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884 It is better to read rathyā (way) for 'raksa (which may mean a reserved pasture or forest) If rakṣā' is kept 'gopracara would mean way for leading cattle Pracara has two meanings way or pasture Vide *Shantaram* v *Vaman* I L R 47 Bom 389 at p 396 for the meaning of pracara Compare Br p 382 v 84 Prayojya was explained as a book by Pārijāta (which says that they should not be divided with fools) Visnu 18 44 reads 'यावसम प्रचारश्च न विभज्य च पुस्तकम्

884 A This is practically the same as the last verse of the Kautiliya on putravibhāga (II 7 p 16.) Manu I 118 speaks of the dharmas of देश जाति कुल and गण

886 Divided in an unjust manner i e divided by giving unequal shares recovered after partition i e debts due from debtors of the family if recovered after partition should be equally divided The meaning is that all cosharers are entitled to divide it and not he alone who finds out concealed wealth &c. Compare Manu IX 218 Yaj II 126 Kaut p 161 द्रव्यमन्योन्यापहृतम् विभक्ते निर्दिष्टं वा पुनर्विभजेरन्

887 Whatever wealth was acquired by a man after he became separated belongs to him alone (exclusively); but whatever is found after it was carried off (by strangers) or after it was (given up as) lost and what is mentioned already should be again divided

888 (The king) should not by force compel the cosharer to return (joint) wealth taken away by one cosharer; he should not make undivided coparceners to return (the price of the) enjoyment (over and above their proper share)

(Partition of a joint field etc even after a long time)

889-890 If a man, leaving the common country, goes to another country, his share should be given to his descendant when he comes (to demand it), there is no doubt Even if he (the descendant) be the third, fifth or even seventh (from the man who left the country), he should get the share that descends hereditarily on his birth and family name being ascertained

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887 'Lost'—a deposit or debt that was regarded as irrecoverable at the time of partition mentioned already —This refers to verse 888 viz wealth concealed from other cosharers or inequitably divided

888 The first half means that a cosharer who takes away more wealth out of the joint property than would properly fall to his share should be made to yield up by other modes than force (such as trick &c) Vide v 478 above and Br p 381 v 96 If when the family is undivided one cosharer has more enjoyment of the joint property than others (because he has more children or because other members are absent) he cannot be made to account for the extra enjoyment to his cosharers at the time of partition, because such excessive enjoyment by one is inevitable in a joint family The Vir. reads 'nivartayet which means 'the king should not prevent *undivided cosharers from enjoying* the joint property'

889-90 'Common country' i e the country where he and his cosharers lived Vide Br. p 373 vv 21-25 for same verses Compare Art. 127 of the Indian Limitation Act

891 The *gotrajas* (members of the family) should allow (a share in the ancestral) lands to the descendant of a man whom the *maulas* and neighbours know to be a co owner (in the land) by descent, when he (the descendant) comes (after partition to demand his share)

892 If persons become separate as to ancestral wealth and then again begin to live together, they should again divide (their wealth after living together), but he who acquires property should get two shares

(*Indications of partition*)

893 When for ten years brothers reside (separately) doing religious observances separately and have separate transactions, they should be known as separate so far as ancestral property is concerned

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891 The Sm C explains that this applies only to lands (and not to movables) and a share will be allowed after the lapse of a long time only as to land For the meaning of *maulas* vide v 743 above This is the same as Br p 374 v 26

892 This verse refers to a case where divided members again live together i e reunite and mix up their shares and one of them acquires more wealth with the help of the wealth that is reunited and so is common In such a case the acquirer gets two shares and the other members who have joined together get one share each If any one of the re united members acquires wealth with his own efforts without detriment to the re united wealth he would keep it as his self acquisition This is the explanation given by the Dāyabhāga following Srīkara Vide Vasistha 17 51 and Br p 381 v 77

893 'Brothers' — this is illustrative and stands for all members of a family that was once joint doing separately —the *dharmas* are such as Vaisvadeva when members are joint worship of gods Vaisvadeva and other Mahayajñas and rites are one Compare Manu IX 111 Gautama 28 4 Nār p 198 v 37 and Br p 370 v 6 Transactions such as bearing witness lending money, standing surety &c Compare Nār p 199 vv 38 40 and Br p 384 v 92 *Lalubhai v Bai Amrit* I L R 2 Bom 299 refers to this verse (at p 309). This verse is almost the same as Nār p 199 v. 41

(Definition of strīdhana and the kinds thereof)

894 What was given before the nuptial fire, what was given at the time of the bridal procession what was given to a woman through affection what was received from the brother mother or father this stridhana is declared to be sixfold

895 What is given to women (by anybody) at the time of marriage before (the nuptial) fire that is declared to be *adhyagni* stridhana by the wise

896 That again which a woman obtains when she is being taken (in a procession) from her father's house (to the bridegroom's) is termed stridhana of the adhyavahanika kind

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894 Kātyāyana's treatment of strīdhana is classical and the fullest of all smṛti writers This verse is practically the same as Manu IX 194 The Mit explains that the mention of six is not meant to exclude a larger number but means that there cannot be less than six kinds In *Bhagwandeen* v *Myna bai* 11 Moore's Ind an Appeals at 513 it is said that the Vivādacintamaṇi and the Mayukha confine *strīdhana* within the definition of Manu and Kātyāyana and that they exclude the property inherited and the other acquisitions which are comprehended in the 1st clause of the para of the Mitākṣarā Compare Yaj II 143 Visnu 17 18 for these and other kinds of strīdhana In the Taittirīya Saṃhitā VI 2 1 1 we read for the wife is master of household gear This is the germ of the law of Stridhana Āp Dh S II 6 14 9 says that the ornaments of a wife belong to her Vas 17 46 refers to the marriage gifts of a woman and Baud Dh S II 2 4 says the ornaments of a woman go to her daughters Gautama 28 22-24 has three sūtras on strīdhana

895 The V R (p 503) says that when the married girl is taken back from the bridegroom's house to her father's what is given by her father in law and others is also *adhyavahanika* and the V C says that it is what is obtained at the time of dviragamana

897. Whatever is given (to a woman) through affection by the father-in-law or mother-in-law and what is received at the time of saluting the feet of elders is termed *prītidatta* (gift through affection)

898 That is declared to be *śulka*, which is obtained as the price of household utensils, of beasts of burden, of milch cattle, ornaments and slaves

899 Whatever is obtained by a woman after marriage from the family of her husband and also what is similarly obtained from the family of her (father's) kinsmen is said to be *anvādheya* (gift subsequent)

900 Whatever is obtained by a woman through affection after her marriage from her husband or from her parents, that is *anvadheya* This is the view of Bhṛgu

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898 'Śulka' generally means 'bride price' i.e the price paid by the bridegroom for giving the girl in marriage Vide Manu III 51 who prohibits the taking of a śulka by the father of the girl for himself, but in III 54 allows śulka being taken if it is kept apart for the girl herself The Sm C and Vir explain it as the price of the articles which the bridegroom was in the habit of presenting to the bride at the time of marriage or when he started a home The Dāyabhāga explains that it is either that wealth which is obtained by a wife as a bribe from artisans for inducing her husband to embark on building a house &c. or it is what is given to a married girl for inducing her to go to her husband's house

899-900 The two verses convey practically the same meaning Many digests omit 900 If v 900 is really Kātyāyana's as the Dāyabhāga and V R. say then Kāt is therein merely transcribing Bhṛgu's view which somewhat restricts the scope of *anvādheya* Vide Manu IX. 195 which contains the word 'anvādheya' In I. L R 33 Cal. 315 the definition of *anvādheya* (v 899) is quoted (at p 320) and it is held that a permanent lease at a nominal rent granted by a father to his married daughter is her *anvādheya* *stridhana* In *Sitabai* v. *Vasantrao* 3 Bom. L. R. 201 it is said that *anvādheya* extends to gifts from parents as well as to gifts from the husband (p. 206)

901 That is known as *saudāyika* which is obtained by a married woman or by a maiden in her husband's or father's house from her brother or from her parents

(Discussion of ownership of stridhana)

902 The father, mother the husband, brother and kinsmen should give *stridhana* to a woman according to their means up to two thousand (panas) except immoveable property

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901 Saudāyika is a technical word used in a peculiar sense by Kāt For its derivation vide my notes to V. M p 285 Saudāyika comprehends several kinds of stridhana property It is specially coined for saying that over Saudāyika stridhana a woman has absolute power of disposal even during her husband's lifetime It is that wealth which a woman receives from her brother or parents or their relatives but not from her husband or his relations This is the interpretation of the Sm C and V I. (p 511) but the Dāyabhāga reads 'भर्तृ सकाशात्' which runs counter to this explanation In I L R 39 Mad 298 Katyayana's definition of saudāyika is quoted (at p 300) the views of the Sm C and other digests are set out and it is held that a gift by a father of immoveable property to his daughter before marriage was *saudāyika* and at her absolute disposal In 3 Bom L. R. 201 at p 207 it is said that *Saudāyika* is not used in contradistinction to *a yautaka* in connection with succession

903 Whatever was given to a woman on an occasion (or condition) or with a fraudulent intent by the father, brother or husband is not held to be stridhana

904 In that wealth which is obtained (by a woman) by mechanical arts or from a stranger through affection the ownership is of the husband, the rest is declared to be the *stridhana*

905 906 On obtaining wealth of the *saudayika* kind it is held (lit desired) that women have independent ownership (over it), since it was given by them (by the kindred)

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903 If the father or husband gives some ornaments to his daughter or wife for wearing on some special occasion (upādhi means condition) or if a father or husband in fraud of his coparceners gives some family property to his daughter or wife that cannot become her stridhana

904 A stranger i e from one who is a friend but not the father or brother or other near relative This verse according to the Dāyabhāga and Vir means that over such wealth the husband has complete power of disposal even when he is not in distress and the woman who acquires it has no power of gift or sale over it without the husband's consent But the object of the verse is not to deny that it is stridhana at all In *Muthu Ramkrishna v Marimuthu Goundan* 38 Mad 1036 this verse of Kāt is quoted (at p 1040) and it is held that all the texts recognise the wife's ownership in the property acquired by her own labour they only restrict her right of alienation and make it subject to the wishes of the husband and that where husband and wife jointly earned profits in a trade and purchased properties, the properties were jointly of the husband and wife and on the wife's death her interest devolved on her heirs and not on the husband

905 906 In order condition — this is the explanation of ānṛśaṃsyārtham according to V R p 511, others explain it as meaning 'out of affection always'—even during husband's lifetime The Digests quote a text of Narada that over gifts made by the husband through affection women have absolute power

as a support in order that they may not be reduced to a terrible (or wretched) condition It has been declared that women always have independence in saudayika wealth as regards sale or gift at their pleasure and even in immoveables (if saudâyika)

907 A woman, when her husband is dead, may deal with the gift given by her husband just as she pleases, but

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of disposal except over immoveables (which she cannot dispose of at her pleasure even after his death) Vv 905 906 are quoted in 1 Mad H C R p 85 at p 90 (note) *Bhagirthibai* v *Kahnojirao* 11 Bom 285 (F B) refers to Kat on saudâyika (at p 302) In *Bhau* v *Raghunath* I L R 34 Bom 229 these two verses and the definition of saudayika are quoted (on p 238) and it is held that except as to the kind known as saudâyika a woman s power of disposal over her *stridhana* is during coverture subject to her husband s consent and that she cannot dispose of such stridhana (other than saudâyika) by will where the husband survives her and is not shown to have assented to the will Vide *Bhagwandas* v *Bai Diwali* 27 Bom L R 633 (where when a woman had lived 30 or 40 years apart from her husband inherited property from her father and willed it way it was held that she was in the peculiar circumstances of the case competent to dispose off by will without her husband s consent) where 30 Bom 229 was distinguished Vide *Nathubhai* v *Javer* I L R 1 Bom 121 where verse 906 is relied upon (at p 123) for the proposition that a Hindu female is not on account of her sex absolutely disqualified from entering into a contract In spite of the text of Nârada referred to above it was held in *Madhavlal* v *Bai Manchha* I L P 7 Bom 191 that an absolute bequest by a Hindu of his separate immoveable property to his widow confers on her as full dominion and power of alienation over that property as if the bequest had been made to a stranger

907 This verse is variously interpreted Bhartidaya' is explained by the Sm C as the stridhana given to a woman by her husband through affection' while the V R and V C take bhartrdâya as meaning the husband s own property According to Sm C in pritidatta stridhana from the husband a woman has

she should preserve it while he is alive, or she may spend (the affectionate gift of the husband) on his family

908-910 If the husband has married two wives and he does not honour (reside with) her (one of them) he should be forcibly made to return (by the king the stridhana of the ill treated wife) even when she bestowed it upon him through affection (for him), where food raiment and residence are denied to (or withheld from) a woman, she may exact her own *stridhana* and also the share (that would have fallen to her husband on partition) from the coparceners (of her husband) This is the rule of law laid down by Likhita when she recovers (her wealth) she should reside in the husband s house if she is afflicted with disease she may at the time of death go to her kinsmen

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after his death absolute power of disposal except over immoveables given by him and that during her husband s life she can dispose of the affectionate gifts of the husband only with his consent (even moveables) The last pāda would also mean she may pass her day in her husband s family 'She should preserve it — means 'she cannot dispose of it without his consent The verse as interpreted by V R and V C means a woman succeeding to her husband s wealth after h s death because there is no son &c. may dispose of it as she pleases except immoveable property and that when the husband is alive she can spend it only with his consent The V R (p 512) says that Halayudha and Parijata took bhartrdāya to mean gifts of affection made by the husband and it prefers the view of Prakaśa I L R 1 Mad 281 quotes this verse at p 286

908-910 In 11 Moore s I A 487 at p 511 and in 8 Mad 290 at p 291 this verse is quoted 908 909 are ascribed to Devala by V M but other ancient and weighty authorities ascribe them to Kat Both 908 and 909 refer to the husband only 'Husband s house — that is though the husband does not honour her she must stay in her husband s house This is the old Hindu sentiment to which classical expression is given in the Śakuntala Act V verse 17

911-912 Neither the husband, nor the son, nor the father nor the brothers have authority (or power) over *stridhana* for the purpose of taking it (for themselves) or for giving it away (to others) If anyone of these forcibly consumes *stridhana* he should be made to return it with interest and should also be liable to a fine

913 914 If a person (out of the husband, son etc) were to consume stridhana amicably after obtaining her consent, then he would be liable to return only the principle, when he becomes well off (or rich enough to pay) Whatever (of stridhana) was allowed (to be taken) by a woman through affection knowing that (her husband) was afflicted with disease, engulfed in misfortune or harassed (or imprisoned) by creditors, the husband may return at his will

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911 912 Verse 911 is quoted in I L R 1 Bom 121 at p 123 and I L R 1 Mad 281 (at p 286) In the latter case it was held that a woman purchasing immoveable property with her stridhana may dispose of it by will The Sm C (III p 656) adroitly points out that by marriage a wife gets a sort of dominion over her husband's property though she is subordinate to him but the husband has not even that dominion over his wife's *stridhana* With 912 compare Manu IX 200 and VIII 29

913 914 The Sm C holds that verse 914 applies only to the husband while V R and V C hold that it applies to all those enumerated in verse 911 If we look at Yaj II 147 where the husband alone is expressly mentioned it appears that the interpretation of the Sm C is the proper one Kat p 153 (III 2) closely follows Yaj ([illegible]) Yaj II. 147 is quoted in I L R 20 Mad 941 at pp 944 and 946 and it is held that 'taken' means taken and used"

915 The husband the sons the brothers in law and kinsmen on the paternal side of a woman are declared to have no power over her *stridhana* while she is alive, those that deprive her of it should be fined

916 That *stridhana* which was promised (to a woman) by her husband should be paid to her as a debt by the sons (of the husband), provided she resides in the husband's family she should not reside with her paternal family

(*Heirs to the wealth of a deceased woman*)

917–918 Sisters having husbands should share with their brothers the stridhana of their mother this is the rule of law and a partition (among the brothers and sisters) is prescribed,

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915 Vide v 912 and Manu VIII 29 who says that the fine is the one for a thief.

916 'The sons of the husband' i e either her own sons or step sons This is only illustrative even the grand son would be liable to pay it as he is liable to pay a debt of the grandfather The first half is attributed to Devala in V M Compare verse 910 above

917 918 There is great divergence of view as regards the succession to *stridhana* among the smrti writers and the *nibandhakaras* The Mit. on Yaj II 145 speaks of two lines of devolution, one for śulka (following Gautama 28 23) and the other for all kinds of stridhana other than sulka (following Gautama 28 22 Yaj II 117 latter half) The Mayukha speaks of five different lines of devolution viz for *anvadheya* and *bhartrpritidatta*, (II) for *Yautaka* (III) for śulka IV for stridhana of the technical kind other than the first three (V) for stridhana which is not technical The two verses 917 and 918 are apparently in conflict the first saying that sisters whose husbands are living take along with brothers, while 918 says that sons succeed to stridhana only on

In the absence (i e on failure) of daughters the wealth (stri dhana) goes to the sons (of the deceased woman), the wealth given by a woman's (paternal or maternal) kinsmen goes in the absence of *bandhus* to her husband

919 Whatever immoveable property was given by the parents to their daughter always goes to her brothers, if she dies without progeny

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failure of daughters Therefore 918 must be interpreted to mean (in accordance with Gautama 28 23) that unmarried daughters succeed in preference to married daughters and sons Verse 917 applies to a case where there are no maiden daughters and it lays down that married daughters whose husbands are living succeed along with sons The word 'sabhartrkāh excludes widowed daughters of the deceased woman when there are married ones The V R says that verse 918 (first half) applies to marriage gifts, yautaka and gifts given by father only With 917 compare Manu IX 192 and vide the explanation of Mit on Yāj II 145 of this verse of Manu where it is made to to mean that full brothers take equally the wealth of their mother and that full sisters do so The verse of Manu does not mean according to the Mit, that the brothers and sisters succeed together Br p 383 v 87 and Nar p 191 v 9 both say in a general way that stridhana goes to the children The Sm, C says that the latter half applies to the case of a woman married in any of the three forms of marriage viz āsura rākṣasa and paiśāca That half may also mean 'on failure (of even sons) the wealth given by paternal or maternal relatives goes to such relatives and in their absence to the husband' Compare with 917 Kaut III 2 p 153 'अंशति भर्तरि मृतायाः पुत्रा दुहितरश्च स्त्रीधनं विभजेरन् ' अपुत्राया दुहितरः । तदभावे भर्ता ।' and with 918 (latter half) Kaut 'शुल्कमन्वाधेयमन्यद्वा बन्धुभिर्दत्तं बान्धवा हरेयुः ' The Mayūkha has 'putragāmi' in 918 The दायभाग says that 918 applies to śulka and the Sm C that it applies to a marriage other than the first five

919 'Without progeny'—this is illustrative here and in 93(and includes daughter's daughter and son and son's son also.

920. That stridhana which was obtained by a woman from her parents in the forms of marriage beginning with the *asura* is desired (held) to go to her parents on failure of her progeny

(Heirs such as the widow to the wealth of a sonless man)

921 A sonless (widow) preserving the bed of her husband (unsullied) and residing with her elders and being self controlled (or forbearing) should enjoy (her husband's property) till her death, after her the (other) heirs (of the husband) would get it (succeed to it)

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920 'In the forms of āsura — i e in any one of the four forms āsura gāndharva rakṣasa and paiśaca. These four forms are said to be unapproved and the other four, brahma, daiva, ārṣa and prājāpatya are said to be approved forms Vide Manu III 21 and Yāj I 58 61 for the eight forms The essence of the āsura form is the receipt of a bride price from the bridegroom Compare Manu IX 197 and Yāj II 145 who prescribes that on failure of progeny stridhana goes to the husband, if the marriage be in the brāhma and other approved forms and to the father if it is in the asura and the other unapproved forms Compare Kautilya p 152 (text)

921 'Should enjoy — i e, she has no power of sale or gift 'Heirs' of her husband such as daughter daughter's son mother, father, brother &c Being self controlled — the V C explains 'kṣanta as not spending too much Compare Br p 377 vv 49 50 and Kaut (III 2 p 153) 'अपुत्रा पतिशयनं पालयन्ती गुरुसमीपे स्त्री धनमायुः क्षयाद्भुञ्जीत आपद्यर्थं हि स्त्रीधनम् । ऊर्ध्वं दायादं गच्छेत्' I L R 2 All 150 (F B) refers to this verse of Kat (at p 152) and holds that subsequent unchastity does not cause a forfeiture in the case of a widow This verse and v 924 are the foundation of the rights of a widow and the reversioners after her death In 5 Patna 646 at p 678 this verse is quoted and it is held that a widow can make a gift of a small portion of immoveable property to the bridegroom at the time of her only daughter's marriage Vide 5 Lahore p 70 also In *Bhagwandeen v Myna Baee* 11 Moore's I A 487 at p 511 this verse is quoted 8 Mad 290 at p 292 quotes this verse and v 924

922-923 When her husband is gone to heaven (is dead) the wife is entitled only to food and raiment if her husband was not separated or she may get a share in (ancestral) wealth till her death (The widow) intent on serving her elders is entitled to enjoy the share allotted to her, if she does not serve (her elders), food and raiment should be assigned to her

924 925 (A wife) who keeps (the honour of) the family would get the share of her husband, when he is dead, till her death, but she has no power for gift, mortgage or sale (A widow) engrossed in religious observances and fasts, fixed in (the vow of) celibacy, always intent on restraining (her

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922-923 These verses mean that when the husband dies un separated (or re-united) his widow may at the choice of the other members get a share in the joint family property or she may be given only food and raiment Elders' i e the father in law &c Verse 922 is quoted in I L R 2 Bom 494 at p 511 and at p 532 (F B)

924-925 These verses do not absolutely forbid a widow from making a gift or sale of her husband's property, on the contrary Kāt enjoins on her the duty of making gifts As the V M says the prohibition as to gifts applies to gifts to bards &c The Privy Council laid down in 8 Moo I A 29 that 'for religious and charitable purposes and those which are supposed to conduce to the spiritual welfare of her husband' a widow has very large powers of disposition Verse 924 is referred to in *Narasimha v. Venkatadri* 8 Mad 290 at p 292 and it is held that the restrictions on the widow's power apply to both moveables and immoveables and in *Bhugwandeen v Myna Baee* 11 Moores Indian Appeals p 487 it was held that both properties are included in the text of Kāt *Pandharinath v Govind* I L R 32 Bom 59 refers to this verse and holds that a Hindu widow is not competent to make a gift of moveables inherited from her husband (p 70) In I L R 42 Bom 136 both verses are referred to (at p 143) and it was held that a gift by a Hindu widow of 4 5 ths of her husband's property for the religious benefit of her husband was not valid Vide 41 All 130 at p 145 Even though sonless'— It was believed that one to whom no son was born did not go to heaven vide Ait Br VII 3 nāputrasya lokostiti &c', Tai Sam VI 3 10 5 (about the three debts), Satapatha Brahmana I 7 2 1. Tai Sam I 4 46 1 prajābhiragne

senses) and making gifts would go to heaven even though sonless

926 The widow if chaste, takes the wealth of her hus band in default of her, the daughter (takes the wealth) if she be unmarried

927 Of a sonless man (the heirs) are declared to be wife of good family, daughters on default of them father, mot her, brother and (brothers) sons

928 When a person dies separated (or in a state of sepa rat on) on default of sons his father takes his wealth or his brother, or mother or father s mother in order

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amrtatvam syām An exception was made in the case of those who observed a vow of perpetual student hood Compare Ap Dh S I 1 4 29 and Manu V 159 160 (where it is expressly sa d that a widow who observes perpetual celibacy after her husband s death goes to heaven even though sonless just as anc ent sages who observed perpetual studenthood went to heaven without sons)

926 Compare Manu IX 130 Nar p 201 v 60 Br p 378 vv 55 5 for the cla ms of the daughter From Āp Dh S II 6 14 4 (duhitā va) it appears that her claims were not clearly recogn sed in his day In a competition between unmarried and married daugh ters the unmarried were preferred v de the well known sutra of Gautam 28 2? It is to be noted that Kat does not expressly req i re chastity in the case of the daughter as he does in the case of of the widow (before the latter can succeed as he r) In *A leyapa v P l as* I L R 4 Bom 104 th s verse of Kāt is quoted (on p 114) and it was held that the daughter was not debarred from inl eritance on the ground of incontinence V de also 1 All 46 (F B) In 11 Bom 285 (F B) it was held that a daughter inher t ng from her mother or father takes an absolute estate which on her death passes to her he rs but this is not the law in Madras Benares and Bengal Vide L R 47 I A 213 at p 223 ;

927 Compare Yaj II 135 136 V snu 17 4 11 for the order among these he rs There was great d vergence of v ew on the order of he rs Vide Gautama 28 19 Āp Dh S II 6 14 2-4 Kaut p 160 (who om ts mother) Sankha L khita (अपुत्रस्य स्वर्य तस्य भ्रातृगामि द्रव्य त अभावे मातरं पितरौ लभेतां पत्नी वा ज्येष्ठा । quoted in M t and Apararka)

928 Compare Manu IX 185 and 217 where the father brothers mother and fathers mother are ment oned as he rs

929. A wife who is full of evil deeds, who is immodest, who wastes property and who is given to adultery does not deserve (inherit) the wealth (of her husband).

930 Whatever a woman does that relates to (benefit in) future state (i e state after death) without the permission of her father, husband or son would become fruitless

931 Heirless (property) goes to the king after keeping aside (wealth sufficient to provide) for the women, the servants, and the s'raddhas (of the deceased), the wealth of a

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929 This verse is quoted in 1 All 46 (F B) at p 49

930 Yaj I 85 says that father, husband and sons protect a woman respectively in her maidenhood, married life and old age and a woman has no independence The same idea is expressed here. If a woman performs certain observances for the benefit of her soul after her death without the permission of the father and the rest, she does not reap the fruit of those acts

931 Compare Nār p 202 v 52 for a similar provision for the 'women (strī) The Mit, V M and other works say that 'women' here means 'the concubines of the deceased since a king cannot take the wealth when the wife is living That the king was the ultimate heir and that the property of an heirless brahmana did not go to the king are propositions laid down by all ancient writers Vide Baud Dh S I 5 102 (तस्माद्ब्राह्मणस्वं नाददीत परम ह्येतत्पापिष्ठं यद् ब्रह्मस्वामिति), Manu IX 189 Āp Dh S II 6 14 5, Gautama 28 39-40, Vas 17 83 87 (who requires it to be given to those learned in the three Vedas and those who are virtuous) Viṣṇu 17 13 14 Kaut p 161 (अदायादकं राजा हरेत् स्त्रीवृत्तिप्रेतकार्यवर्जमन्यत्र श्रोत्रियद्रव्यात् । तत् त्रैविद्येभ्यः प्रयच्छेत्) This verse is quoted in I L R 2 Bom 573 at p 608 and is the foundation of the right to maintenance of a concubine (against the heirs of the deceased) recognised in modern decisions Vide I L R 12 Bom 26 (where it is held after quoting this verse that continued continence is a condition precedent to a concubine of a deceased person claiming maintenance) 26 Bom 163 (where it was said that the concubine has no legal right against her paramour but on the latter's death, she has a legally enforceable right against the heir if she continued to be a concubine up to the

brahmana learned in the Vedas (when there is no heir) should be assigned to other learned brahmanas.

932 In the absence (of sons grand sons and great grand sons or the wife) the re-united coparceners are declared to take the wealth of (deceased re-united coparceners) and separated kinsmen of (deceased separated kinsmen), they being persons who mutually inherit though they are not the descendants of each other

(Gambling and prize-fighting)

933 One should not resort to gambling which inflames the passions and greed (of men), which engenders bad charac

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death of the deceased and was continent afterwards) This last case was approved of in I L R 53 I A 163 (=50 Bom 604) where it was held that an *avaruddha* woman (a concub ne) of the deceased can claim maintenance from his heirs out of the estate of the deceased but it is not a condition that she should have resided in the same house with the deceased together with his wife and regular fami ly Vide I L R 48 Bom 203 (where a kept mistress whose husband was alive was not treated as a concubine entitled to ma ntenance from the heirs of her deceased paramour) The wealth of a brāhmana etc This direction of the ancient sages as to the wealth of a brāhmana has not been respected in modern times Vide *Collector of Masulipatam v Cavaly Venkata* 8 Moore s Indian Appeals 500 at p 527

932 This verse is somewhat obscure The translation is made according to V C and V R nirbījānyonyabhāginaḥ is explained by V C as 'न हि परस्पर निरन्वयानभागभा इत्यर्थ '

933 Gambling is one of the most ancient vices. Rgveda X 34 is a hymn which contains the lament of a gambler There are numerous references to gambling in the Vedas vide Rg I 41 9 VII 86 6 Vājasaneya Sam 30 18 (aksa rajāya kitavam) Pāṇini (II 1 10 II 3 57 58 IV 4 2 and IV 4 19) in several sūtras explains words referring to gambling and mentions akṣa (dice) and śalākā as instruments of gambl ng Āp Dh. S. (II 10 25 12 13) refers to gambling houses Manu (IX 223) def nes gambling as that which is carried on with inan mate objects (l ke dice, draughts &c) and 'samāhvaya, as that which is carried on by means of sentient beings (i e birds like cocks and animals l ke rams and bulls) Nār p 212 v 1 and Br p 385 v 3 make the same distinction Manu IX 224 227 condemns gambling and calls

tera which is cruel, and causes loss of wealth to men

934 Since strife is certain (to follow) from gambling just as poison (is sure to issue forth) from the mouth of a serpent, therefore the king should stop this vice in his country

935 If it (gambling) has to remain (has to be allowed) he (the king) should allow it to be done openly with an (ornamental) arch erected near the door (of the gambling hall) in order that respectable people may not be mistaken (about its real nature) and he should make it yield revenue (tax)

936 The keeper of the gaming house should make the gambling go on and should himself pay to the king (the latter's) dues He (the keeper) should take from the defeated party ten per cent as his profit

937 The keeper should give to the winner his money (out of his own pocket) and he should recover from the defeated gambler within three fortnights or at once, there is no doubt (about this rule)

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upon the king to punish gamblers and vintners and to banish them from the kingdom, while Kaut (III 20 p 197 text) allows gambling under the supervision of the king's officers and Yaj II 199 203 also does the same and says that regulated gambling is helpful in detecting thieves Br p 335 v 1 refers to this divergence of views between Manu and other legislators

934 Since strife &c'—compare Manu IX 227 which is the same as Mahabhārata Udyogaparva 37 19

935 Gambling may be carried on secretly or openly Even Yaj II 203 prescribes that those who carry on gambling secretly should be branded and banished, with an arch &c — that is it had probably an arch with a sign board and from its exterior it must have been clear to everybody that it was a gambling den and not an ordinary habitation Compare Br p 385 v 5 for gambling being allowed only if done openly

936 Compare Nar p 212 v 24 for a closely similar verse) and Br p 386 v 8 Yaj II 199 Kaut (III 20 p 198 text) allows only five per cent to the keeper besides the hire for supplying gambling accessories and for water and accommodation The last half may also mean that he should take 10 per cent as interest if the defeated party has not paid down the wager in cash

937 The reading kitavad dhana samśaye (he should recover at once when there is doubt as to whether the money will be forthcoming) is better

938 Where (the throw) of a man playing with dice in gambling is the same as or double (of the previous throw) there the (former) gambler is the winner and his protection (from the other gamblers) is to be arranged for

939 Or the gambler (himself), after giving to the king his share (of revenue) as declared, should carry on gambling openly In this way he will be guilty of no fault

940 The keeper of the gaming house should make the defeated gambler forcibly pay what (the defeated) has to pay in the same place (i e in the gaming hall) and not elsewhere, since the procedure (in gambling matters) *entirely* rests with the keeper of the gaming house.

941 A person ignorant (of gambling) if defeated (in gambling) should be released (from his liability), but one who knows gambling should not be released if he is defeated in secret (gambling), when one knowing gambling has lost his all (in a wager) he should not be made to pay his all

942 In disputes (among gamblers) in (deciding on) victory, in the matter of the gain (to the winner), and as regards the means (i e dice) of those who are (alleged to be) playing with false dice, the keeper of the gaming house if he is honest, is the final authority

943 In the case of mlecchas, cāṇḍālas (lit dog eaters), rogues, gamblers ascetics the decision is to those who (are

938 The translation of this verse is merely tentative Compare a similar verse in Nar p 213 v 3

939 This verse is an exception to the rule mentioned by Br p 385 v 2 that gambling should be carried on under the eye of a master of the gaming house 'The gambler – includes also the plural 'No fault—i e he will not be guilty of depriving the state of its revenue and of engaging in gambling unauthorizedly Compare Nar p 213 v 8 which is the same

941 Compare Br p 386 v 7

943 The idea is that the king should not take upon himself to decide their disputes but should assign that work to other gamblers etc who alone are proper judges (and witnesses also) in such cases

alleged to) have violated their conventions does not rest with the king

(*Miscellaneous*)

944-946 Whatever was omitted in the preceding discourse (on the titles of law), and whatever is cut off from its proper context, what is taken from another system of knowledge and is not quite appropriate, what is stated at the close of the śāstra (i e of the dharmaśāstra) by way of illustrations and occupies the position of being (more or less) a repetition – those passages which are set forth in this way are called *prakīrṇaka* The duties of kings ones own duties and disquisition on doubtful matters and what is omitted from the preceding discourse all this is *prakīrṇaka*

947 948 (Fixing) a proper share (of the produce)

Vide Yāj II 202 (first half) Nār p 213 v 4 Br p 386 v 6 for the same idea.

944-946 There is some difference as to the exact meaning of 'prakīrṇaka Manu (VIII 47) does not enumerate among his eighteen titles such a separate title as 'prakīrṇaka Yāj does not expressly name the word nor does he define it but according to the Mit (and other digests) the last few verses (295-307) of his second chapter (on Vyavahāra) treat of prakīrṇaka This word literally means 'scattered about Nār p 214 vv 1 4 sets out the subjects that fall under this head, the first of which is transgression of the kings commands and the last is 'whatever is omitted from the discussion of the preceding titles of law and Br p 386 v 1 says that *prakīr raka* comprehends those causes that are instituted by the king him self (and not by a private person) It is therefore that the Mit (on Yāj II 295) says that that judicial investigation which is started by the king himself is prakīrṇaka. Kāt mentions only a few out of the thirteen subjects that Nārada enumerates. In verses 949-951 Kāt. mentions some of the topics that fall under prakīrṇaka according to Nārada. *Tantra* means siddhānta (propositions propounded in a system of knowledge or philosophy Compare Nyāyasūtra I 1 28-31 It is difficult to connect the accusatives in 'dharmān' in v 946 and to say definitely what 'svadharma here means We should probably read 'rājadharmān svadharmā ca' and 'svadharma may be taken to mean 'the attributes of the soul

947 948 It is probable that the proper reading is 'sadbhāga' (6th of the produce) Kaut (II 15 p. 93) and Manu VIII 307 distinguish between 'sadbhāga' and kara', though very often 'kara'

as the king's dues of subsidies (from vassals) and of tolls what is to be paid at the pits divulging (the secrets) of a battle or conspiring with thieves assault on another's wife, desire to kill (i e attempt to kill) cows and brahmanas, destruction of crops – these ten wrongs the king should himself look into (i e should start and investigate)

949 950 Non performance of *prayascittas* (penances), transgression of (royal) commandments and arrests (*asedha*), the obliteration (or destruction) of (the duties of) the *varnas* and *as'ramas* (the four stages of life), the prevention of the confusion of castes (finding of) treasure trove (accumulation

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simply means tax Kaut (II 21 and 22) has two chapters on the superintendent of tolls (called śulkādhyakṣa) and on the levying of tolls According to ancient ideas the king was entitled to one-sixth of all wealth (which was called his vetana wages in Śāntiparva 71 10) and also of the merit (*punya*) of his subjects Vide Baud Dh S I 10 1 (षड्भागभृतो राजा रक्षेत्प्रजाम्) Gautama X 24 (6th was the maximum) Vas I 42 44 (राजा तु धर्मेणानुशासत् षष्ठं धनस्य हरेत् । अन्यत्र ब्राह्मणात् । इष्टापूर्तस्य तु षष्ठमंशं भजतीति) Manu VII 130-132 and VIII 305 It is difficult to say what garta (pit) means, probably the reference is to mines Vide Kaut (II 12) on mines as a royal preserve and also Viṣṇu 3 55 Under Sec 69 of the Bombay Land Revenue Code all mines and minerals belong to Government, except where Government has alienated its rights For ten *aparadhas* mentioned by Pitāmaha vide note to v 27 above. For including the fines for ten *aparādhas* in royal grants vide grant of Dhruvasena of Valabhi (619-20 A D) in E. I vol, I p 85 and also in E. I I 55 E I vol VI p 196 According to Narada quoted in Sm C III p 63 transgression of commands killing a female confusion of castes illicit intercourse with another's wife, robbery pregnancy from a man other than the husband abuse, insulting (or obscene) language, assault and abortion were ten aparadhas Vide Nār p 234 vv 11 12

949 950 For āsedha vide note on v 101. It would be better to read kopanam (fomenting or provoking) for lopanam ' Treasure-trove —the ancient Hindu Law on this point was that the finder of treasure-trove if he informed the king was to get one sixth and the rest went to the king that if the finder was a learned brāhmana he could keep the whole and that the king was to seize the whole and also inflict a fine if the finder did not inform the king

of) wealth without useful employment of it, (sudden) accession of riches in the case of an indigent man, — after clearly ascertaining these through spies, the king should himself employ preventive measures

951–952 Matters on which no express provisions are found in the śāstras, the wranglings of disputants about the burden (or means) of proof fomenting (dissensions or hatred) among the constituent elements of the state the mutual conventions (to be observed by the constituent elements of the state) whatever actions not permitted by the śāstras come into vogue among the subjects — these the king should (try to) settle (or reduce) by such expedients as conciliation division &c

953 (The king) should employ the punishment of words towards his allies (or friends) the punishment in the word 'fie in the case of ascetics Whatever is expressly declared

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Vide Gautam X, 43 45 Vas, III 13, Manu VIII 35-39, Yāj II 34 Visnu III 56 64 The Indian Treasure trove Act (VI of 1878) requires the finder to give notice in writing to the Collector of the District (sec 4) and prescribes that on failure to give such notice he will forfeit the treasure and be punishable with one year's imprisonment or fine or both Accession of riches etc. —the king was to investigate how a poor man at once became rich (whether it was by theft or other offences).

951–952 'Matters etc —compare Manu XII 108 (where also the word anāmnāta is used). The reading should be kriyāvādāśca The meaning of kriyāvādā ca vādinām is not quite clear constituent elements of the state there are seven such elements (prakṛtis) according to Manu IX 294 (the king the ministers the country the treasury the fort fied capital army and allies are the seven) and Kaut (VI 96 p 257) whatever actions etc — compare Yāj I 351 expedients – of royal policy are four vide notes on v 193 above and Manu VII 107 109

953 Vide notes above on v 481 where the four kinds of danda

(in the śāstra for a certain offender) that should be done in his case, if nothing is said (in the śatra) then he (the king) should well prescribe (the proper punishment)

954 He who succeeds in his cause by means of false evidence (document) or by a false seal, should be made to pay the highest amercement

955 Those who are addicted to the pastimes (specially reserved) for kings, those who betake to the avocation of the king those who are given to speaking what is distasteful (to the king) should be awarded corporal punishment

956 Those who imitate the king in his appearance (dress &c), those who become spectators (when they should be doing their duties) those who recover more taxes (than are due) and those who steal the kings wealth should be punished with various corporal punishments.

957 —Same as 486 above

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viz *vak*, *dhik*, *dhana* and *vadha* are mentioned Compare Br p 387 vv 4-6

954 Vide Manu IX 232, (who prescribes death for manufacturing a false royal ed ct) Yaj II 295 (who prescribes highest amercement for making unauthorised alterations in royal edicts) Śankha—Likhita (कूटशासनप्रयोगे राजशासनप्रतिषेधे कूटतुलामानप्रतिमानव्यवहारे शारीरश्छेदो वा' quoted in V R p 369)

955 Pastimes etc – we have to understand 'without the permission of the king' here and in the next clause, 'betake to the avocation of the king' i e those who take upon themselves the function of protecting the people (without the king's permission) 'those who are given to &c' — the punishment is prescribed for persistent indulgence in uttering what is distasteful to the king (viz. praising his enemies &c) Compare Yaj II 302 303 for punishment for persistent utterance of what is distasteful and riding the king's own horse or sitting on his throne

956 Spectators — those who look on dancing &c that is going on before the king neglecting their duties *as servants of the king* 'those who recover — The V. R p 369 explains that those who take fine in excess of those declared by the king are meant,

958 (The king) should ask the culprit when (caught) handed the reason why he committed the offence and then having carefully brought the guilt home to him, he (the king) should prescribe the punishment

959 When an offence is committed by any one, who is well-conducted through helplessness or ill luck, in that case (the king) should not prescribe a punishment

960 Kings who prescribe proper punishments are honoured even by gods, (the king) should award the first part of a fine for only beginning (an offence), the middle part for being in the midst of doing it, the (full) punishment prescribed (in the texts) for an offence is to be awarded when the whole offence is completed

961 Kings and especially ministers would get this (hell) by not punishing sinners and by punishing those who bow (to the law)

962 Those who are dependent on another, and those who are reduced to slavery — these are said to be not their own masters Beating is (the only) punishment in their case

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958 'Sacihnam' - may also mean 'after branding on the fore head For various grave offences branding on the forehead was prescribed by Manu IX, 237 and 240

959 'Through helplessness or ill luck' i e through fear or through mistake

960 When a completed offence is constituted by several acts each of which is punishable, this verse prescribes a fourth part of the fine for the completed offence, if only the first of the several acts constituting the complete offence is perpetrated, half the punishment is prescribed when half of the acts constituting the full offence are committed

961 Read 'enam for 'evam, which latter makes no sense, 'bow to the law i e who are on the right path and so do not deserve punishment Compare Manu VIII 128 (who speaks of hell for doing this)

962 'Dependent on another' —such persons as wife sons &c 'beating' —they are not to be fined, but only corporal punishment is to be inflicted on them

963 Beating (whipping), imprisonment and making him a laughing stock — these are the punishments (proper) for a slave, monetary punishment is not prescribed (for him)

964 The man who deserves capital punishment should be made to pay one hundred suvarṇas (as fine in lieu of death sentence), one deserving of having a limb cut off (should be made to pay) half of that (i e 50 suvarṇas), one deserving banishment (should be made to pay) twenty five (suvarṇas)

965 In the case of offenders who are of high family or are respectable or possessed of good qualities, but who are not well off, (the fine should follow) the above proportions, or having seized their all (when they are not well off) the king should quickly banish these from the capital.

966 Those who have no wealth should be kept in jail, (the king) should not carry out the death sentence In the case of all offenders, special procedure (as to punishment) should be observed in accordance with the (rules of *śāstras*).

967 A brāhmaṇa who is guilty of an offence punishable with death or cutting off a limb should sit in a jail without having to do anything He is (in that way) prevented from doing bad acts That (keeping him in a jail without allowing

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963 'Making him &c,'— i e tonsuring his head or making him ride an ass

964 For *suvarṇa* vide notes to v 494, compare Bṛ p 388, v 12 for a very similar verse

965 'Should follow &c' —that is if a hundred suvarṇas cannot be had, then a reduced fine may be awarded

966 This seems to ordain that death sentence should be as rare as possible

967 This refers to a brāhmaṇa offender who was well-conducted and devoted to his duties till then he should be confined in a jail and should not be allowed to do his duties If we read 'tadākarmā' -the sense becomes easier, 'he is then not able to do his usual religious duties' Compare Bṛ p 333 vv 10-11 (who forbids capital punishment for a brāhmaṇa and recommends shaving,

him to do his religious duties) becomes the proper punishment for him

968 (A brāhmana) who gives false evidence should be banished a brāhmana who accepts a gift from a sinful person should be proclaimed (to all people) one who is guilty of cutting a limb of another should be deprived of the performance of his religious duties by being sent to jail

969 In the case of those who are guilty of offences similar to these similar punishements should be prescribed (by the king) In the case of minors old men, diseased persons and women, there is no punishment but that of beating

970 A king who follows the law should make (a woman offender) pay a fine out of her stridhana but a woman guilty of an offence who has no wealth deserves beating as punishment

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branding and banishment instead) Manu VIII 379 Gautama 12 43 44 Baud Dh S I 10 17–18

968 Manu VIII 123 and Yāj II 81 prescribe banishment for a false brāhmana witness and monetary fine for false witnesses of other castes Manu II 185 enjoins upon a brāhmana brahmacārī not to beg at the houses of grave sinners Manu X 76 says that ordinarily a brāhmana was to accept gifts from a pure person while X. 103 allows him to accept gifts from censurable people in times of adversity, but X. 109 says that gifts from unworthy persons are worse than even teaching those who should not be taught or officiating as priest for those for whom it should not be done Nārada p. 2?0 v 40 enumerates people from whom gifts should not be accepted

969 This verse has reference to offences similar to those mentioned in v 781 above Compare verse 487 for lesser punishments in the case of women Gautama (2 43) Manu (VII 16 and VIII 126) and Yāj I 368 enjoin that time, place ability age learning should be looked to in awarding punishment Manu IX 230 prescribes that [illegible] should be beaten with ropes &c.

971-97 What is unjustly acquired (by the king) should be consigned to the treasury, the treasury should be used for doing (meritorious) works, (otherwise) the king's undertakings will be destroyed, a wise (king) should not bring about destruction (of himself) All that wealth that arises from fines should be bestowed on (learned) brāhmaṇas and after transferring the kingdom to his son the king should betake himself to the forest

973 The king being always intent on observing the rules (of the śāstra) should act in this manner and should employ all his servants for the welfare of the people

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971-72 Verse 971 cannot be easily construed It refers to fines wrongly imposed Yāj II 307 says that the king should offer to Varuṇa (who is the king of kings) 30 times the fine wrongly imposed by him and should then distribute it among brāhmaṇas Manu (IX 244-45) asks the king to throw into a river or to distribute among brāhmaṇas all fines imposed upon great sinners and not to put them in his treasury through greed Manu VI 1 ff speaks of the order of forest hermit (*vānaprastha*)

APPENDIX A

List of Cases and Law Reports referred to in the notes

The figures refer to the verses The abbreviations employed are as follows —

Moo I A —Moore's Indian Appeals.

I. A —Law Reports, Indian Appeals

I L R Indian Law Reports

Bom —Indian Law Reports Bombay Series

Bom L R —Ratanlal's Bombay Law Reporter.

Bom H C R —Bombay High Court Reports Series

Cal —Indian Law Reports, Calcutta Series.

P J – Printed Judgments of the Bombay High Court

All – Indian Law Reports Allahabad Series

Mad H C R —Madras High Court Reports.

Patna—Indian Law Reports Patna Series

Patna L J —Patna Law Journal

Lahore—Indian Law Reports Lahore Series

Advyapa v *Rudrava* 4 Bom 104—v 926

Bhagwanlal v *Bai Diwali* 27 Bom L R 633 vv 905 906

Bhagirthibai v *Kahnojirao* 11 Bom 285 (F B)—vv 905 6

Bhagawati Shukul v *Ram Jatan* 45 All 297—v 858

Bhau v *Raghunath* 34 Bom 219 vv 905 6

Bhugwandeen v *Mynabee* 11 M I A 488, p. 512 vv 894, 921, 924 25

Collector of Madura v *Mootoo Ramlinga* 12 M I A 397—vv 803-804

Collector of Masulipatam v *Cavaly Venkata* 8 Moo I A 500 v 931

Collector of Thana v *Krishnanath* 5 Bom 322 v 852

Collector of Thana v *Hari Sitaram* 6 Bom 546 (F B)—v 852

Debi Pershad v *Thakur Dial* 1 All 105 (F B)—vv 855-56

Durgadat v. *Ganesh* 32 All. 305 v 867

Futtehsingji v *Dessai Kallianraiji* 1 I A 34 v 852

Jatindra Mohan v *Ghanashyam* 30 Cal. 200 v 887

Khushalchand v *Mahadevgiri* (1875) P.J 276—v, 833.

6 Bom 4"3-v 546
6 Bom 546 (F B)-v 882
7 Bom 491 vv 905 6
10 Bom 149 v 882
10 Bom 528 v 839
11 Bom 285 (F B)-vv 905 906 926
14 Bom 482 v 566
15 Bom 32 v 867
16 Bom at p 43 v 839
17 Bom 100-v 857
17 Bom 351 v 566
18 Bom 136 v 566
20 Bom 721 (F B)-vv 510 512
23 Bom 454 v 536
23 Bom 725 (P C)-v 566
26 Bom 163 v 931
31 Bom 354-vv 504 505
32 Bom 59-vv 924 25
34 Bom 229 vv 905 906
35 Bom 169 vv 648 649
35 Bom 199 vv 510 512
36 Bom 275 v 882
36 Bom 379 v 88?
40 Bom 270 v 857
42 Bom 136 vv 924 925
46 Bom 213 v 335
47 Bom 389 v 884
48 Bom 203 v 931
49 Bom 672 v 857
50 Bom 604 v 931
P J (1875) p 276 v 882
1 Bom L R 551 vv 510 512
2 Bom L R 451 v 752 753
3 Bom L R 201 vv 899 900 901
6 Bom L R 434-v 534
8 Bom L R 375 v 287
21 Bom L R 419 vv 510 512
22 Bom L R 226 vv 752-753
27 Bom L R 683 vv 905 906
31 Bom L R -189-v 835 1030 v 835
32 Bom L R 1343 vv 863 64

5 Cal 148 (P C) v 560
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APPENDIX B.

List of important and technical Sanskrit words occurring in the text of Katyayana The figures refer to verses

Abhiyoktā, complainant or plaintiff 121

Abhiyukta accused or defendant, 121

Ācarita sitting dharna at the door of a debtor 586

Ādhibhoga, taking profits of pledge or mortgage in lieu of interest, 501

Adhyagni, kind of stridhana, 895

Adhyāvahanika, kind of stridhana 896

Āgama, title or source of title 317

Āhuta-prapalāyi, party absconding after summons 202

Ājnakraya, sale of land by king for state revenue 701 704

Akramodhi, a woman married in an improper order, 863

Ākula, making no sense 185

Anakalabhrta (a slave) maintained during a famine, 731

Āndika, same as Karsāpana, in Panjab 494

Anirdista, 520

Anugama certainty that there is no title 321

Anuśista, decision on testimony of witnesses 495

Anvadheya gift subsequent made to a woman, 899 900

Anvadhi, delivery by bailee to another for handing over to the bailor, 611

Anvāhita, ,, 592

Anyakrta, an attested writing 249

Anyārtha irrelevant reply 181

Anyavādi one who changes his pleading 202

Aparādha matter investigated suo motu by king 948

Aprasiddha, ununderstandable reply 176

Āpta one who speaks the truth 347

Āpta 361

Arthin, plaintiff or complainant 89

Asāra, absurd (reply) 186

Āsedha restraint on or arrest of suitor 105

Aślila indecent 769, 771

Ātatayin desperate man, felon, 803 804

Atibhuri too wide reply 179

Ātyayika matter of an urgent nature 365

Avakraya transfer by a bailee 711

Avyāpaka, not meeting thoroughly, evasive 182

Bhogalābha a kind of interest 509

Lagnaka a surety 530
L kh ta, subscribing witness 359 371
L ñgin one wearing pecul ar sect marks 349
Masa twentieth part of kārsā pana 493
Maula here litary 57
Maula defined 743
Mithya reply of denial 166, 167
Mrtāntara a kind of witness 377
Mula vendor of an article of wh ch a th rd man cla ms to be the real owner 157, 615
Naigama trader or group of citizens 49 678
Nāstika, owner whose goods are lo t 614
Nibandha period cally recurr ing right or pr vilege 382
Nigudhartha myster ous reply 134
Niratha d scles ng ins gni ficant injury 140
Niruttara a party remain ng silent though questioned 200 202
Nisrstārtha one appo nted or entrusted with a matter 470
Nisprayojana 140
Nisthura, reproachful 769 70
Nopasthāta party not present ing h mself even after summons 199 202
Pada, t tle of law 29
Pādavandanika a kind of stri dhana 897
Paksa, plaint 130
Paksābhāsa defective plaint 140
Pala a weigh t 451
Pa ajaya defeat in a law suit 246
Parivrtt exchange 701
Parokta defeat declared by ju lge after evidence 246 243
Pasa da apostate from asceti c sm 6"9"
Paścatkāra a judgment after contest 259 264
Paunarbhava son of a woman twice marr ed 860
Poganda a m nor 845 A
Pradvivaka, judge 69
Prakirnaka m scellaneous mat ters 914 46
Pramana means of proof 214 313
Prat bhu surety 531
Prat jna averments in plaint 137, 141
Prat patti reply of confession 168
Pra ivādi defendant
Prat vādi any party to a liti gat on 385
representat ve or agent of a su tor 93
Pratyakal ta del berat on by judge and sabh, as 31 212
Pratyarth n defendant 145
Pratyavaskandana reply of a spec al plea 165
Prit datta affectionate gift to a woman 807
Puga, associa ion of merchants &c 225 349 679

GENERAL INDEX

Words included in appendix B have generally been omitted Sanskrit words and proper names have been put in italics, figures refer to the verses, *n* refers to the notes on the verses No references are given to works like the smṛtis of Manu Yajñavalkya, Nārada Bṛhaspati and like the Mitākṣarā, the Vyavahāra mayukha, since they are quoted on almost every verse